

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1009 OF 2023
IN
CRIMINAL APPEAL NO.301 OF 2023

Amol Gulab Awale & Anr. .. Applicants

Versus

The State of Maharashtra .. Respondent

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Mr.Rishi Bhuta i/b Mr.Parth Pandey and Mr.K.R.Shah for the Applicants.

Ms.P.N.Dabholkar, A.P.P. for the State.

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CORAM: BHARATI DANGRE, J.
DATED : 28th MARCH, 2023

P.C:-

1. By the present application, the two Applicants, one of whom being a senior citizen and a practicing Advocate seek suspension of sentence and their release on bail, pending the Appeal.

Applicant No.1 stand convicted for the offences punishable under Sections 353 and 392 of IPC and have been directed to undergo R.I. for three months and to pay fine of Rs.1,000/-, in default, to suffer S.I. for 15 days respectively. Both the sentences have been directed to run concurrently. As far as Applicant No.2 is concerned, he is convicted for the

offence punishable under Section 353 of IPC and sentenced to suffer R.I. for three months and to pay fine of Rs.1,000/-, in default to suffer S.I. for 15 days.

2. With the able assistance of the learned counsel for the Applicants and the learned A.P.P., I have perused the impugned judgment.

The learned counsel for the Applicants would vehemently argue that a specific role came to be attributed to accused No.1-Abhijeet Merude, who is also a practicing Advocate and the impugned judgment has acquitted him of the charges, by specifically recording that the allegation levelled against him under Section 353 of IPC is not proved, as there is no evidence brought on record that he actually used the criminal force.

The learned counsel would submit that the role attributed to the two Applicant, who came to the aid of accused No.1-Abhijeet Merude is obviously lesser than the one attributed to him, as the incident began with an altercation with PW 1 in his office and he is accused of creating disruption in his working. As far as the two Applicants are concerned, they are roped in the second and third incident, which are alleged to have taken place thereafter, when accused No.1-Abhijeet Merude was aggrieved with alleged wrong order passed by PW 1 and after he left the office. As far as Applicant No.2 is concerned, it is alleged that he threatened to cancel the order and shouted upon him and it is alleged that Applicant No.1 abused and had thrown his mobile towards him.

3. My attention is invited to the evidence that is placed before the Court and this definitely deserve consideration at the time, when the Appeal is heard. Considering the minuscule nature of the sentence imposed on the Applicants, on being convicted and the fact that the Applicants were on bail and they have not misused their liberty, I deem it appropriate to grant the application. Hence, the following order.

: ORDER :

1. The application is allowed.
2. The sentence imposed on the Applicants under the impugned judgment dated 23/01/2023 in Sessions Case No.161 of 2019, is hereby suspended.
3. The Applicants are directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- each, with one or more sureties in the like amount.

(SMT. BHARATI DANGRE, J.)