

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1086 OF 2023
IN
APPEAL NO.331 of 2023

Ismail Mathulal Shaikh & Ors.] .. Applicants

vs.

State of Maharashtra & Anr.] .. Respondents

Mr.Priyal Sarda for the Applicants.

Ms.Anamika Malhotra, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 23rd March, 2023.

P.C.

1] This Interim Application is taken out seeking suspension of sentence and release of the Applicants on bail. Appeal is admitted by this Court and taken up for hearing.

2] Heard the learned counsel for the Applicants and the learned APP for the State.

By the impugned Judgment dated 07.02.2023, the Additional Sessions Judge, Solapur has convicted the Applicants for the offence punishable under Section 395 of the Indian Penal Code and they are sentenced to suffer Rigorous Imprisonment for 3 years and to pay fine of Rs.1000/- in default to suffer Simple Imprisonment for one month. They also stand convicted under Section 341 of the Indian Penal

Code, but no separate sentence is awarded. All the Applicants came to be acquitted of the offence punishable under Section 120-B, 353 read with 34 of the IPC.

3] On perusal of the impugned Judgment, the learned counsel for the Applicants would invite my attention to the loopholes in the evidence of prosecution, which was completely ignored by the learned Sessions Judge. He would submit that except for the Appellant No.1, there is no basis for identification of the other accused persons, as no test identification parade was held. The learned Sessions Judge has also recorded that, they have no criminal antecedents.

The offence is committed as early as on 13.08.2015 and all the Applicants were on bail throughout the trial and there is no complaint that they had misused the liberty granted to them.

4] The points raised in the Appeal will have to be appreciated at the time of final hearing, when the entire record and proceedings will have to be perused.

At this juncture, since the sentence imposed upon the Applicants is to undergo RI for 3 years, I deem it appropriate to suspend the sentence imposed upon them.

They are also entitled to be released on bail subject to furnishing PR Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

Interim Application is disposed off in the aforesaid terms.

[BHARATI DANGRE, J]