

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.2474 OF 2023
IN
CRIMINAL APPEAL NO.771 OF 2023**

1. Tipu Sultan Firoj Mansuri	...
2. Aniruddha Amrish Rathod	... Applicants
vs.	
The State of Maharashtra & Anr.	... Respondents

Mr. Sushant Mhatre for the Applicants.
Mr. A. R. Patil APP for the Respondent-State.
Mr. Kushal Mor with Tanmay Karmarkar for Respondent No.2.

CORAM : NITIN B. SURYAWANSHI, J.

DATED : 7TH NOVEMBER 2023

P. C. :

1. Learned Advocate for applicants states that applicants are convicted under Section 304 (Part II) and are sentenced to suffer rigorous imprisonment for seven years. He argued on merits of conviction and submitted that prosecution has failed to prove charge beyond reasonable doubt. He further submit that since this is a short term sentence, applicant may be released on bail, pending appeal.
2. Learned APP as well as learned Advocate for

Respondent No.2 vehemently opposed application. They submit that there is CCTV footage which shows the assault committed by applicants. Eye witnesses have implicated both applicants as assailants of the deceased, therefore, this is not a fit case to enlarge applicants on bail, during pendency of appeal.

3. From the impugned judgment, prima facie it appears that in CCTV footage, actual assault by applicants on deceased is not seen. There appears other persons also involved in the alleged incident.

4. This is a short term sentence. In the wake of decision of the Apex Court in the case of ***Bhagwan Rama Shinde Gosai and Ors. vs. State of Gujarat***¹, and as no substantial circumstances are made out to deny bail to applicants and since applicants are in jail since last about 14 months and as appeal is not likely to be heard in near future, application deserves to be allowed. Hence, the following order :

(a) Application is allowed.

(b) Substantive sentence imposed on applicants vide judgment and order dated 23rd June 2023, in Sessions Case

1 (1999) SCC (Cri.) 553

No.452 of 2019, is suspended during pendency of appeal.

(c) Applicants be released on bail on executing personal bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

(d) Applicants shall be released on deposit of fine amount.

(e) Applicants shall attend concerned police station twice a month on every 1st and 3rd Sunday between 10 am and 12 noon and shall residential address and cell numbers to concerned police station.

[NITIN B. SURYAWANSHI, J.]