

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2480 OF 2023
IN
CRIMINAL APPEAL NO.773 OF 2023

Yogesh Punaji Gavit and another
versus
The State of Maharashtra

Appellants
Respondent

Mr.Ashok Mundargi, Senior Advocate, i/by Mr.Jayant Bardeskar,
Advocate for Appellants.
Mr.Y.Y.Dabake, APP for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 14th July 2023

PC :

1. Applicants have preferred this application for suspension of sentence and grant of bail. Applicants are convicted by the Court of learned Additional Sessions Judge, Kolhapur vide judgment and order dated 16th June 2023 and maximum sentence of conviction is of three years.

2. Initially applicants were tried before Judicial Magistrate First Class, Radhanagari and vide judgment and order dated 17th December 2021 all the accused including applicants were acquitted. The order of acquittal was challenged by State by preferring appeal before the Court of Sessions. Applicants were convicted and acquittal of other accused was confirmed.

3. Learned Senior Advocate for applicants Mr.Mundargi submitted that the applicants were on bail during trial. On the date of conviction the Trial Court has suspended the conviction till 16th July 2023. The sentence is of short term. The case suffers from

serious infirmities in the nature of omissions and contradictions. The order of acquittal passed by first Court has been reversed by Sessions Court.

4. Learned APP submitted that Sessions Court has reversed the judgment of Trial Court by appreciating evidence.

5. As stated hereinabove, the applicants were on bail during trial as sentence was of short term. All accused were acquitted and the order of Trial Court was reversed by Sessions Court qua applicants. The applicants have urged grounds challenging legality of the judgment of conviction. The sentence was suspended by Sessions Court on the date of conviction for a temporary period in accordance with Section 389 of Cr.P.C. It is short sentence. Appeal would not be heard immediately. Hence, application is required to be allowed.

ORDER

- (i) Interim Application is allowed and disposed;
- (ii) The substantive sentence of imprisonment imposed vide judgment and order dated 16th June 2023 passed below Exhibit-13/A in Criminal Appeal No.35 of 2023 Additional Sessions Judge, Kolhapur, is suspended during pendency of Criminal Appeal challenging impugned judgment of conviction, and applicants are directed to be released on same bail as directed by Trial Court with fresh bonds.

(PRAKASH D. NAIK, J.)

MST