

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

**INTERIM APPLICATION NO.4363 OF 2022
IN
CRIMINAL APPEAL NO.1242 OF 2022**

Lahu Dhuleshwar Tanpure & Anr. Applicants
versus
State of Maharashtra Respondent

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- Mr. Rushikesh S. Kekane i/b. Mahadji V. Phalke, Advocate for Applicants.
- Smt. M. R. Tidke, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 07th FEBRUARY, 2023**

P.C. :

1. This is an application for bail pending final disposal of the Appellants' Criminal Appeal No.1242 of 2022. The Appellants are the original accused Nos.4 and 7. Both of them were convicted and sentenced by the Assistant Sessions Judge, Baramati, vide his Judgment and Order dated 30/09/2022 passed in Sessions Case No.26 of 2013. Both of them were convicted for commission of offence punishable u/s 354, 143, 148, 324 r/w 149 of the Indian Penal Code and were sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.5,000/- each and in default of payment of fine to suffer

rigorous imprisonment of three months. They were acquitted from rest of the charges.

2. Heard Mr. Rushikesh S. Kekane, learned counsel for the Applicants and Smt. M. R. Tidke, learned APP for the State.
3. Learned counsel for the Applicants submitted that the Applicants were on bail during trial and they have not misused the same. Even after their conviction, they were granted bail u/s 389 of Cr.P.C. He submitted that no independent witness is examined. There is inconsistency in the statements of two witnesses i.e. P.W.2 and P.W.3. He submitted that the Trial Judge has disbelieved the major part of the evidence and has acquitted 14 other accused and therefore there cannot be application of section 149 of the Indian Penal Code.
4. Learned APP opposed this application. But she conceded that the sentence is short.
5. I have considered these submissions. The points raised by the learned counsel for the Applicants will have to be

considered at the final hearing stage. The sentence imposed is short. The Appeal is not likely to be decided within that short period. The Applicants were on bail during trial. There are no allegations of misuse of that liberty. Even after their conviction they were granted bail for a limited period.

6. Considering these aspects, the Applicants can be granted bail during pendency of their Appeal.

7. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.1242 of 2022, the Applicants are directed to be released on bail on their furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only) each, with one or two sureties each, in the like amount.
- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)