



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 569 OF 2024
IN
CRIMINAL APPEAL NO.115 OF 2024

1. Shaikh Afsar Shaikh Ismail,
Age-60 years, Occupation-Driver,
2. Shaih Afsar Shaikh Sandu,
Age-48 years, Occupation-Business,
3. Shaikh Akram Shaikh Babu,
Age-36 years, Occupation-Driver,
4. Shaikh Tausif @ Kishu Shaikh Rafiq,
Age-34 years, Occupation-Driver,
5. Sayyad Sohel Sayyad Mohammad,
Age-33 years, Occupation-Labour,

All R/o. Rahemangunj, Jalna,
Tq. & Dist. Jalna.

... Applicants

Versus

1. The State of Maharashtra
2. Manisha Ganesh Raut
Age-31 years, Occupation-Homemaker,
R/o. Bhagatsing Chowk, Hanuman Nagar,
Naka No.4, Jalna, Tq. & Dist.Jalna.
3. Reena Ramlal Raut,
Age-41 years, Occupation-Service,
R/o. Bhagatsing Chowk, Hanuman Nagar,
Naka No.4, Jalna, Tq. & Dist.Jalna.
4. Seema Hiralal Raut
Age-33 years, Occupation-Homemaker,
R/o. Bhagatsing Chowk, Hanuman Nagar,
Naka No.4, Jalna, Tq. & Dist.Jalna

... Respondents

(Respondent no.2 to 4
are the alleged victims
and compensation was
awarded to them)

...
Mr. Sudarshan J. Salunke, Advocate for Applicants.
Mr. N. D. Batule, APP for Respondent – State.
Mr. Chaitanya S. Deshmukh, Advocate for Respondent Nos.2 to 4.
...

CORAM : ABHAY S. WAGHWASE, J.
DATED : 15th APRIL, 2024

ORDER :

1. Instant application is for suspension of sentence and grant of bail by virtue of conviction recorded by Special Judge-4 (S.C./S.T. Act), Jalna in Atrocity Special Case No. 246 of 2021, recording conviction for offence punishable under sections 143, 147, 323, 294, 504 read with section 149 of Indian Penal Code (IPC) and provisions under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "*Atrocities Act*").

2. In support of relief, learned counsel for applicants would submit that, maximum sentence awarded for each of the above offence is six months and to pay fine. That, applicants were on bail during trial. That, there is false implication and therefore, appeal has been preferred, but the same would take long time to be heard and decided. He pointed out that, even after judgment and order, learned trial court was pleased to suspend the sentence till filing of appeal and the same was continued by way of interim order passed by this court.

3. Both, learned APP as well as learned counsel for victim opposed the application pointing that, along with conviction for IPC, conviction is recorded for committing offence under Atrocities Act. That, all ingredients for recording conviction were available. That, prosecution witnesses are lending support to each other. Hence, they both pray to refuse the relief.

4. Perused the papers. It seems that, present applicants were tried for above offences vide Atrocity Special Case No. 246 of 2021 and by judgment and order dated 04.01.2024 case of prosecution is held proved for offence punishable under sections 143, 147, 323, 294, 504 read with section 149 of IPC and section 3(1)(r) and 3(1)(s) of Atrocities Act. Operative part shows that, maximum sentence awarded i.e. for sections (3)(1)(r) and 3(1)(s) of Atrocities Act is for six months each and to pay fine and for IPC sentence is for three months. It seems that, applicants were on bail during trial and even sentence was suspended by the trial Judge post conviction.

5. Considering the quantum of sentence, nature of allegations and the fact that appeal having been filed in 2024 would take sufficiently long time to be heard and decided, prayers

so raised are required to be granted. Hence, I proceed to pass the following order :-

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicants, (i) Shaikh Afsar Shaikh Ismail, (ii) Shaih Afsar Shaikh Sandu, (iii) Shaikh Akram Shaikh Babu, (iv) Shaikh Tausif @ Kishu Shaikh Rafiq and (v) Sayyad Sohail Sayyad Mohammad in Atrocity Special Case No. 246 of 2021 by the Special Judge-4 (S.C./S.T. Act), Jalna on 04.01.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.115 of 2024.
- (iii) The applicants be released on P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand only) each with two solvent sureties each in the like amount.
- (iv) The applicants shall not commit any criminal activity.
- (v) The applicants shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date they tender bail papers and thereafter, the trial Judge to fix dates for their subsequent appearances.
- (vi) In case of two consecutive defaults on the part of the applicants to remain present before the trial

Court, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicants.

(vii) Bail before the trial Court.

(ABHAY S. WAGHWASE, J.)