



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 736 OF 2024
IN
CRIMINAL APPEAL NO. 164 OF 2024

1. Manoj Shankar Parerao
Age: 37 years, Occu: Labour
R/o Bhimnagar, Sakri Road,
Tq. and, Dist. Dhule
2. Dilip S/o Dagdu Parerao
Age: 51 years, Occu: Ex Soldier
R/o 71, Jal Ganga Housing Society,
Near Surat By Pass Toll Plaza,
Tq. and Dist.Dhule
3. Dhanraj @ Dhanu S/o Shankar Parerao
Age: Adult, Occu: Labour
R/o Bhimnagar, Sakri Road
Tq. and Dist.Dhule

... Applicants.
(Orig. Accused)

Versus

1. The State of Maharashtra
Through Dhule City Police station,
Taluka and District. Dhule.
2. Bharati Yuvraj Ingale
Age: 51 years, Occu: Household
R/o Bhimnagar, Sakri Road
Tq. and, Dist.Dhule

... Respondents.

...
Mr. Chaitanya C. Deshpande, Advocate for Applicants.
Mr. N. D. Batule, APP for Respondent - State.
Mr. Sanjeev B. Deshpande, Senior Counsel i/b. Mr. C. B. Choudhari,
Advocate for Respondent No.2.
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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 07 MARCH 2024

PRONOUNCED ON : 11 MARCH 2024

ORDER :

1. Instant application is for suspension of sentence and grant of bail by virtue of conviction recorded by learned Additional Sessions Judge, Dhule in Sessions Case No. 142 of 2012, which was tried and convicted for offence punishable under sections 326 and 323 read with section 34 of Indian Penal Code (IPC).

2. It is submitted that, alleged incident took place in the backdrop of political rivalry. It is further submitted that, though there are allegations of use of articles like sword and rod, recovery is rendered doubtful as not proved. That, finally though there was charge of section 307 of IPC, conviction is recorded for offence punishable under section 326 and 323 respectively i.e. accused nos.1, 3 and 18. He further pointed out that, applicants were on bail during trial. There is a good case on merits in appeal. However, as much more time would be required to hear and decide the appeal, which is filed in 2024, he prays for suspension of sentence and grant of bail.

3. Learned Senior counsel for complainant - victim staunchly opposed the application pointing out that grave offence is committed. There is life imprisonment for offence punishable under section 326 of IPC. There are allegations of use of sword.

4. Learned APP also strongly opposed the application pointing out that, there is overwhelming evidence about assault by use of articles like sword, iron rod and wooden log. There is medical evidence. Grievous injury has been caused. Therefore, he also prays to reject the application for suspension of sentence.

5. In the light of above submissions advanced by each of the side and on going through the papers, it seems that, as many as 18 persons were made to face trial for charge under sections 307, 395, 143, 147, 148, 452, 323, 427 read with section 149 of Indian Penal Code (IPC). It further seems that, prosecution has examined informant as well as five injured persons, medical witnesses and panchas etc.

6. On prima facie going through the record and judgment, learned trial Judge seems to have accepted the case of prosecution, but only for commission of offence under section 326 of IPC as regards to only accused no.1 Manoj, whereas accused No.3 Dilip and accused 18 Dhanraj are held guilty for offence punishable under section 323 of IPC. Sentence awarded for each of the above offence is five years and three months, respectively and to pay fine.

7. Admittedly, judgment dated 20.01.2024 is questioned by filing Criminal Appeal No. 164 of 2024. Obviously said appeal would take sufficiently long time to be heard and decided. Though implication was by invoking section 149 of IPC, out of 18 persons only three persons are held guilty, as stated above. Occurrence is reported to be fall out of political rivalry. Taking the quantum of sentence into consideration, circumstances as well as backdrop in which incident took place and taking into consideration the fact that applicants were on bail during trial, relief as prayed deserves 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) Manoj Shankar Parerao, (ii) Dilip S/o Dagdu Parerao and (iii) Dhanraj @ Dhanu S/o Shankar Parerao in Sessions Case No.142 of 2012 by the learned Additional Sessions Judge, Dhule on 20.01.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.164 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 tenders 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.)