



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**7 CRIMINAL APPLICATION NO. 1057 OF 2024
IN APPEAL/232/2024**

1. Vikas Pandurang Kshirsagar
Age: 31 years, Occu.: Agriculture,
R/o. : Paradh, Taluka Bhokardan,
Dist.Jalna.
 2. Raju Ramesh Borkar
Age: 29 years, Occu.: Agriculture,
R/o. As Above.
 3. Kishor Bharat Kshirsagar
Age: 33 years, Occu.: Agriculture,
R/o. As above.
- ..Applicants

Versus

- .
- The State of Maharashtra
Through Police Station Officer,
Gondi Police Station, Taluka Ambad,
Dist.Jalna.
- ..Respondent

Advocate for Applicants : Mr. Satyajit S. Bora
APP for Respondent : Ms.A.S.Deshmukh

...
CORAM : ABHAY S. WAGHWASE, J.

...
DATE : 11 MARCH, 2024

PER COURT :-

1. This is an application for suspension of sentence awarded by learned Additional Sessions Judge, Ambad, Dist.Jalna in Sessions Case No. 243 of 2021 on 12-02-2024.

2. Learned Counsel for the applicants submits that though charge was for offence under Section 302 r/w 34 of the Indian Penal Code (IPC), conviction was ultimately recorded for offence under Section 304 Part II of the IPC. That applicants are sentenced to suffer 3 years rigorous imprisonment each and to pay fine. He further points out that applicants were on bail during the trial. That further even after conviction, learned trial Judge was pleased to suspend the sentence and grant bail till 12-03-2024. He pointed out that occurrence is sudden due to some incidence that arose while playing cards.

3. Learned APP points out that charge was for offence under Section 302 of the IPC. That applicants have been convicted. It is pointed out that victim has not been made party.

4. Learned Counsel for the applicants undertakes to add such victim as party respondent in appeal.

5. Heard both the sides. Perused the record. Considering the circumstances in which the incident took place, quantum of sentence awarded and the fact that applicants were on bail during trial, relief

as prayed deserves to be granted. Accordingly, I proceed to pass following order :

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant nos.(1) Vikas Pandurang Kshirsagar (2) Raju Ramesh Borkar and (3) Kishor Bharat Kshirsagar in Session Case No.243 of 2021 by the learned Additional Sessions Judge, Ambad on 12.02.2024 stands suspended till the final hearing and disposal of Criminal Appeal No. 232 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)
JUDGE