



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1401 OF 2024
IN
CRIMINAL APPEAL NO. 296 OF 2024

1. Kailas Gajendra Nanware,
Age : 31 Years, Occ. : Labour
2. Babasaheb Gajendra Nanware,
Age : 34 years, Occ. : Labour
3. Dnyaneshwar Gajendra Nanware,
Age : 33 years, Occ. : Labour

All R/o. Chinchwan, Tq. Wadwani,
Dist. Beed.

... Applicants
(Orig. Accused Nos.1 to 3)

Versus

The State of Maharashtra
Through: Police Station, Officer
Police Station, Wadwani Dist. Beed.

... Respondent
(Prosecution)

...
Ms. Rakhi V. Sundale, Advocate for Applicants
Mr. D. J. Patil, APP for Respondent - State
...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 30th APRIL, 2024

ORDER :

1. This is an application for suspension of substantive sentence and grant of bail on account of conviction recorded by learned District Judge-1 and Additional Sessions Judge, Majalgaon, District Beed in Sessions Case No. 11 of 2021, dated 02.02.2024.

2. It is submitted that, applicants were tried for commission of offence under sections 353, 341, 504 and 506 read with section 34 of Indian Penal Code (IPC) by learned District Judge-1 and Additional Sessions Judge, Majalgaon. That, learned trial Judge by its judgment and order dated 02.02.2024 held applicants guilty for offence punishable under sections 341 and 353 read with section 34 of IPC. That, exception has been taken to the said judgment and order by filing Criminal Appeal No.296 of 2024 very recently. It will take more time to be heard and decided. That applicants were on bail during trial. That, They have every hope of succeeding in the appeal. However, as appeal would take long time to be heard and decided and hence prayers for suspension of sentence and grant of bail.

3. Relief is opposed by learned APP on the ground that, upon trial conviction is recorded. That, complainant was a bus conductor and she was a lady. Above offence has been committed against her and same is proved and hence he prays to refuse the relief as prayed.

4. Heard each of the side. It seems that, PW1 Rukhmini informant was working as Bus conductor and was performing duty

on 01.08.2016. There are allegations that, present accused forcibly entered into the bus and were questioned to that count. There was said to be verbal exchange of words as accused refused to alight. Therefore, complaint seem to have been lodged. Prosecution seems to have examined 04 witnesses. Admittedly, upon conviction, out of several charges, conviction is for only sections 353 and 341 read with section 34 of IPC and sentence is apparently 3 months and 15 days, respectively, for each of the offence.

5. Considering the nature of allegations, quantum of sentence and the fact that appeal being of 2024, would take long time to be heard and decided, 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) Kailas Gajendra Nanware, (ii) Babasaheb Gajendra Nanware and (iii) Dnyaneshwar Gajendra Nanware in Sessions Case No. 11 of 2021 by learned District Judge-1 and Additional Sessions Judge, Majalgaon, District Beed on 02.02.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.296 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 he 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.)