



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 CRIMINAL APPLICATION NO. 2402 OF 2024
IN
APEAL/531/2024

1. Vitthal S/o. Bhagwantrao Birajdar,
Age: 68 years, Occu.: Driver,
R/o. Vidhyanagar, Shelgi, North Solapur,
Dist. Solapur
2. Revansiddha Vitthal Birajdar,
Age: 31 years, Occu.: Driver,
R/o.: Vidhyanagar, Shelgi, North Solapur,
Dist. Solapur

.. Applicants
(Ori. Accused)

Versus

- . The State of Maharashtra,
Through Tamalwadi Police Station,
Taluka Tuljapur & Dist. Osmanabad

.. Respondent
(R 1 is Complainant)

...
Advocate for Applicants : Mr. Amol Jagtap Legal Associates
APP for Respondent/State: Mr. R. D. Raut
...

CORAM : ABHAY S. WAGHWASE, J.

DATE : 20th JUNE, 2024

ORDER:

1. By way of instant application, both the applicants who were tried for offence under sections 353, 332, 504, 506 read with 34 of IPC and were held guilty and sentenced to suffer imprisonment of 1 year, 6

months respectively for respective offences, have pressed into service instant application for suspension of sentence and grant of bail.

2. Learned counsel for the applicants submits that against said judgment of conviction, appeal has been preferred and the same is numbered as 531 of 2024. According to the learned counsel, there is improper appreciation and hence above appeal has been preferred. It is pointed out that there is every hope of succeeding in the appeal, moreover, both the applicants were on bail during trial. Fine amount is already paid. However, it is further submitted that as appeal is of 2024 and as it would take long time to be heard and decided, he prays for suspension of sentence and grant of bail.

3. Learned APP opposed above application on the ground that there was obstruction to the Police Officer from discharging his duty. Finding all ingredients for attracting charges to be available, on full fledged trial conviction is recorded. For all above reasons he submits that relief as prayed may not be granted.

4. Heard both the sides. Perused the judgment dated 22.05.2024.

5. It seems that, on 04.10.2018, when complainant police officer, who was performing duty along with his staff, accused came and

caught hold of his collar and scuffled with him. Accused no.2 allegedly issued threats and such occurrence was reported by police officer resulting into registration of crime for offence under sections 353, 332, 504, 506 read with 34 of IPC. Trial culminated into conviction. However, operative part of the judgment shows that maximum sentence awarded to accused applicant no.2 is one year and for remaining there is 6 months time and applicant no.1 is acquitted from charges under sections 353 and 332 of IPC and accused no.2 is convicted under sections 353, 332, 506 and 504 of IPC. Considering the short term sentence and fact that the applicants were on bail during trial, application needs to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (I) Criminal Application stands allowed.
- (II) The substantive sentence imposed on the applicants in Sessions Case No.153 of 2022 by the learned Additional District Judge, Osmanabad, on 22.05.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.531 of 2024.
- (III) The applicants – Vitthal S/o. Bhagwantrao Birajdar and Revansiddha Vitthal Birajdar 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.]