



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

**945 CRIMINAL APPLICATION NO. 2447 OF 2024  
IN APEAL/570/2024**

- 11 Kripalsingh s/o Shersingh Tak,  
Age: 21 years, Occ: Labour,  
R-/o Ramamata, Ambedkar Nagar,  
Nanded.
- 2] Jogindarsingh s/o Jagbirsingh Tak,  
Age: 24 years, Occ: Labour,  
R/o. Ramamata, Ambedkar Nagar,  
Nanded.
- 3l Anil @ Anya s/o Malikarjun Mathpati,  
Age:28 years, Occ: Labour  
R/o Vishnu Nagar, Nanded.

**...Applicants**

**VERSUS**

The State Of Maharashtra

**...Respondents**

...  
Mr. D. S. Ingole h/f Mr. Nilesh S. Ghanekar - Advocate for Applicants  
Mrs. S. N. Deshmukh - APP for Respondent/State  
...

**CORAM : R. G. AVACHAT  
AND  
NEERAJ P DHOTE, JJ.**

**DATED : 01<sup>ST</sup> AUGUST, 2024**

**PER COURT : -**

1. This is the Application for suspension of substantive sentence imposed upon the Applicants by the learned Additional Sessions Judge-1, Nanded in Sessions Case No. 15/2022 vide Judgment and Order dated 15.04.2024 convicting the Applicants and Co-convicts

for the offence punishable under Sections 307, 324, 323, 504, 506, 143, 147, 148 r/w 149 of the Indian Penal Code.

2. In nutshell, the case of Prosecution is that, the Applicants and the Co-convicts assaulted Sanjay Devkar – Informant and his father by means of Sword and attempted to kill. The Informant and his father suffered injuries for which they were hospitalized. The criminal law was set into motion and after the Trial, the Applicant and Co-convicts came to be convicted.

3. It is submitted by the learned advocate for the Applicants that the Co-convict against whom the role of assault is attributed has been granted bail by this Court vide order dated 07.05.2024. He submits that the Applicants are entitled for suspension of sentence and bail on the ground of parity.

4. The Application is opposed by the learned APP. She submits that there is discovery of weapon of assault at the instance of the Applicant though the co-convict has been granted bail. She submits that the ground of parity would not be applicable.

5. It is not in dispute that the substantive sentence of the co-convict against whom the role of assault is attributed has been

suspended by order dated 7<sup>th</sup> May, 2024 passed in Criminal Application No. 1746 of 2024. Though the Sword has been discovered at the instance of Applicant No. 1 - Kripalsingh pursuant to Section 27 of the Indian Evidence Act, admittedly, there are no blood stains on the said sword and therefore it would be debatable whether the said discovery would be relevant. Further, the eye-witnesses of the incident have not supported the case of the prosecution. In this view of the matter, we proceed to pass the following order.

**ORDER**

- [i] The Application is allowed.
- [ii] The substantive sentence imposed upon the Applicants by the learned Additional Sessions Judge-1, Nanded in Sessions Case No. 15/2022 *vide* Judgment and Order dated 15.04.2024, is suspended during the pendency of the Appeal.
- [iii] Applicants be released on bail on their furnishing P.R. bond in the sum of Rs. 15,000/- [Rupees Fifteen Thousand] each, with one surety in the like amount.
- [iv] Bail before the Trial Court.

6. Criminal Application stands disposed of accordingly.

**[NEERAJ P. DHOTE]**  
**JUDGE**

**[R. G. AVACHAT]**  
**JUDGE**

SG Punde

Signed by: Sandeep Gulabrao Punde

Designation: PS To Honourable Judge

Date: 02/08/2024 18:51:06