



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2684 OF 2024
IN
CRIMINAL APPEAL NO.596 OF 2024

- 11 Bittubai Maroti Shingare
Age:- 43 years, Occ. Labour.,
- 21 Seema Raosaheb Borude
Age:- 41 years, Occ. Labour.,
- 31 Chakulya @ Satish Raosaheb Borude
Age:- 21 years, Occ. Labour.,
- 41 Shivani Rohit Landge
Age:- 21 years, Occ. Labour.,
- 51 Moin Amir Shaikh
Age:- 33 years, Occ. Labour.,
- 61 Sharad Rajaram Shinde
Age:- 33 years, Occ. Labour.,
All R/o. Digras, Tq. Rahuri,
Dist. Ahmednagar
- ... Applicants.

Versus

The State of Maharashtra,
Through Police Inspector,
Police Station Rahuri,
Tq. Rahuri, Dist. Ahmednagar

... Respondent

...
Mr. Rahul R. Karpe, Advocate for Applicants
Mrs. Uma S. Bhosale, APP for Respondent - State
...

CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 11th JULY, 2024
PRONOUNCED ON: 15th JULY, 2024

ORDER :

1. This is an application for suspension of sentence and grant of bail in consequence to conviction recorded by learned Additional Sessions Judge, Ahmednagar in Sessions Case No.05 of 2022, convicting applicants for offence punishable under sections 306 and 323 r/w section 34 of Indian Penal Code.

2. Learned counsel apprised this court about nature of charges and about conviction recorded by trial court by order dated 25.06.2024. He submitted that, sentence awarded by the trial court is five years. That, applicants were on bail during trial. According to him, deceased hanged himself and according to prosecution he did so in the backdrop of incident of beating by in-laws. Learned counsel emphasized that, in fact, alleged occurrence of beating was around 2:30 p.m. of 15.04.2021 and deceased committed suicide by hanging on next day i.e. on 16.04.2021. Therefore, according to learned counsel, there is no connection of occurrence dated 15.04.2021 with suicide of 16.04.2021. Learned counsel also pointed out that, post-mortem report findings do not suggest any beating marks. Moreover, according to him, regarding occurrence of 15.04.2024 and suicide of 16.04.2024, FIR is after

six days and hence there is every possibility of false implication by sister of deceased on concocted story. Lastly, he submitted that, there is a good case in appeal and applicants have every hope of succeeding. Further according to him, appeal being of 2024, it would take long time to be heard and decided and hence he beseeches for relief of suspension and grant of bail.

3. Strongly opposing the above application, learned APP pointed out that, it is a case of direct eye witness account of beating. Such witness is examined by prosecution in trial court. Only because of beating and humiliation, deceased Rohit hanged himself. According to her, there is close proximity between beating and death. That, applicants on full-fledged trial are found guilty for abetment to commit suicide for beating and causing injuries. Considering the nature of crime committed by them, she prays to reject the application.

4. Perused the papers. Heard both sides. It seems that, deceased Rohit hanged himself on 16.04.2021 in his own house. There are allegations against applicants for beating him in the afternoon previous day i.e. on 15.04.2021. Apparently, report of above occurrences was on 21.04.2021 i.e. after almost a week after occurrence of beating. According to learned APP, PW5 Tarachand

is a direct and independent witness. However, he seems to be nephew of complainant.

5. Considering the nature of allegations, delayed FIR, offence for which guilt is proved, and the factor that much more time would be required to hear the appeal, relief as prayed deserves to be granted. Hence, the following order.

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicants, namely, (i) Bittubai Maroti Shingare, (ii) Seema Raosaheb Borude, (iii) Chakulya @ Satish Raosaheb Borude, (iv) Shivani Rohit Landge, (v) Moin Amir Shaikh, (vi) Sharad Rajaram Shinde in Sessions Case No.05 of 2022 by learned Additional Sessions Judge, Ahmednagar on 25.06.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.596 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.)