



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

**904 CRIMINAL APPLICATION NO. 2696 OF 2024
IN
APPEAL/599/2024**

1. Harish S/o. Narayan Nimbalkar,
Age: 26 Years, Occu.; Agril,
R/o. Barmachiwadi, Tal. Kallamb,
Dist.: Dharashiv
2. Tanaji S/o. Sambhaji Jadhav,
Age: 29 Years, Occu.: Agril,
R/o. Barmachiwadi, Tal. Kallamb,
Dist. Dharashiv

.. Applicants

Versus

- . The State of Maharashtra,
Through Yermala Police Station,
Yermala, Tal. Kallamb,
Dist. Dharashiv

.. Respondent

...
Advocate for Applicants : Mr. Sushant Baburao Choudhari
APP for Respondent/State: Mrs. Chaitali Choudhari-Kutti
...

CORAM : ABHAY S. WAGHWASE, J.

DATE : 20th JULY, 2024

ORDER :

1. Instant application is filed for relief of suspension of sentence and grant of bail in consequence to judgment of conviction passed by learned Special Judge, Kallam, District - Osmanabad in Special Case

No.121/2023, convicting the applicants for offence under Sections 324, 452 read with Section 34 of the Indian Penal Code.

2. Learned counsel submitted that applicants were made to face trial for commission of offence under Sections 452, 324, 323, 504, 506 read with Section 34 of IPC and 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. That, trial ended up in conviction only for offence under Sections 324 & 452 read with Section 34 of IPC. It is pointed out that sentence awarded is only of 1 year for each of the offence. Fine amount is also paid. He further submitted that applicants were on bail during trial. According to him, appeal has been preferred and the same is numbered as 599 of 2024 i.e. a recent one. It will take long time for hearing and as applicants have every hope of succeeding in the appeal, he prays for relief of suspension of sentence and grant of bail.

3. Learned APP strongly opposed and submitted that offence is proved beyond reasonable doubt. Grievous injury has been inflicted, which is proved by prosecution by adducing medical evidence and, therefore, conviction has been correctly recorded and, hence, for all above reasons, she prays to dismiss the application.

4. Considering the application and on going through the evidence it is precise that the present applicants, who were tried by learned trial judge for offence under Sections 452, 324, 323, 504, 506 read with Section 34 of IPC and 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and the trial has culminated into conviction. By order dated 12.06.2024, learned trial judge held applicants guilty for offence under Sections 324 and 452 read with Section 34 of IPC and they have been sentenced 1 year imprisonment for both the above offence. Fine is also imposed but it is said to be paid. The applicants were on bail during trial. Sentence is only for 1 year. Considering the short sentence and appeal to be of the year 2024, 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 applicants in Special Case No.121 of 2023 by the learned Special Judge, Kallam, District – Osmanabad, on 12.06.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.599 of 2024.

(III) The applicants – Harish Narayan Nimbalkar and Tanaji Sambhaji Jadhav, 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.]