



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3933 OF 2024
IN
CRIMINAL APPEAL NO. 844 OF 2024

1. Bandu s/o Haribhau Ghule
Age : 52 years, Occu. Agril.,
R/o Takali, Taluka Kaij,
District Beed.

2. Jalinder Vishwanath Ghule
Age : 45 years, Occu. Agril.,
R/o Vikhe Patil Karkhana,
Taluka Kaij, District Beed.

... Applicants

[Orig. Accused Nos. 1 & 9]

Versus

The State of Maharashtra
Through Police Station Officer,
Ambajogai Rural,
Taluka Ambajogai, District Beed.

... Respondent

.....

Mr. Siddheshwar S. Thombre, Advocate for the Applicants.
Mr. D. R. Korade, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.09.2024

Pronounced on : 20.09.2024

ORDER :

1. Vide this application, prayers are raised for suspension of sentence and grant of bail by virtue of conviction recorded by Additional Sessions Judge, Ambajogai on 04.09.2024 in Sessions Case

No. 60 of 2014 for offences under Sections 143, 147, 323, 341, 342, 346, 363 and 365 r/w 149 of the Indian Penal Code [IPC].

2. Learned counsel for the applicants submitted that conviction is recorded by trial court for commission of offence under section 365 of IPC and sentence awarded is imprisonment for five years. Appraising this Court about the nature of report/FIR, it is submitted that apparently, there is false implication by wife of Balasaheb, who was indebted to the sugar factory. There are allegations of confinement for 29 days. FIR is delayed one and is moreover a counterblast to the FIR by sugar factory. That, applicants were on bail during trial. They have a good case on merits, but as it would take long time for the appeal to be heard and finally decided, prayers for suspension of sentence and grant of bail are pressed into service.

3. Per contra, learned APP submitted that serious offence of abduction has been committed and proved. The trial court had, on complete appreciation, recorded guilt. Abduction was in the background of money transaction. There are allegations of snatching gold ornaments and cash. Informant wife, victim husband and two independent witnesses supported the prosecution and therefore, for the said reasons, learned APP opposes the application.

4. Perused the papers. i.e. judgment and depositions. It transpires that FIR was registered at Ambajogai Rural Police Station against in all 9 accused, for commission of offence under Sections 143, 147, 148, 323, 341, 342, 346, 363, 365, 395 r/w 149 of IPC. It appears that all 9 accused are convicted for commission of offence under Sections 143, 147, 323, 341, 342, 346, 363 and 365 r/w 149 of IPC by the trial court by its judgment dated 04.09.2024.

5. Wife of Balasaheb, who was said to be abducted, has set law into motion alleging that on 18.04.2011, while she and her husband were returning towards the village, their motorcycle was intercepted by a Scorpio jeep bearing registration no. MH-44-9909, and unknown persons who alighted from the vehicle, initially trapped her husband in a net, beat him and forcibly took him in the vehicle and she reported this occurrence to police. It seems that on 21.05.2011, victim Balasaheb himself appeared in police station and he too gave statement naming 11 persons for forcibly abducting him, snatching his gold locket, cash and mobile. He has alleged that he was confined in a room.

6. Apart from informant and victim, prosecution seems to have adduced evidence of two eye witnesses i.e. PW3 Gulab Rathod and

PW4 Manoj Padole. PW3 Gulab in his evidence at Exhibit 16 reported that he saw Scorpio vehicle approaching motorcycle, net being thrown on the person on motorcycle, he was assaulted by means of stick, hockey stick, iron rod and was being carried in the vehicle. He claims that he inquired with the woman who gave details of the persons who abducted her husband. As regards the second eye witness is concerned, i.e. Manoj, he also claims to have seen the incidence.

7. Therefore, considering the nature of allegations, and to a court query, when learned counsel admits that applicants are employees of sugar factor, this Court does not find it a fit case to extent relief as prayed. Hence, I proceed to pass the following order:

ORDER

The Application is rejected.

[ABHAY S. WAGHWASE, J.]