



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

**CRIMINAL APPLICATION NO. 4048 OF 2024
IN APPEAL/881/2024**

1. Vikram S/o Bhanudas Potphode
Age: 37 years, Occu.: Labour.
2. Bhanudas S/o Toliram Potphode
Aged: 54 years, Occu.: Labourer
3. Taramati Bhanudas Potphode
Age: 50 years, Occu.: Household
4. Sagar Bhanudas Potphode
Age: 32 years, Occu.: Household.

All above are residing at Post Indira Nagar,
Paithan, Tq.Paithan, Dist.Aurangabad.

..Applicants

Versus

- . The State of Maharashtra
Through In-charge, Police Station Paithan,
Tq. & Dist. Aurangabad.

..Respondent

...

Advocate for Applicants : Mr. Arun Shejwal
APP for Respondents: Mrs.Chaitali Chaudhari - Kutti

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 30 SEPTEMBER, 2024

ORDER :-

1. Vide instant application, prayers are raised for suspension
of sentence and grant of bail as a result of conviction awarded

by learned Additional Sessions Judge, Aurangabad in Sessions Case No.51 of 2019 for offence under Sections 313 and 323 of the Indian Penal Code (IPC).

2. Learned Advocate for the applicants submitted that in above case, sentence awarded is of five years. That applicants were on bail during trial. Learned Advocate took this Court through the evidence of two medical experts and informant wife, and submitted that there is no convincing evidence regarding commission of above offence and even necessary ingredients for attracting above offence are not available, but still learned trial Judge has accepted the version of prosecution and convicted the applicants. That the said conviction is challenged by way of appeal. That there is a good case in appeal on merits. However, appeal is of 2024 and it will take long time to be heard and decided. Hence, above reliefs are pressed into service.

3. Learned APP strongly opposed the application pointing out that there is clear and clinching evidence. That wife has lodged

report against husband and in-laws. That they are responsible for miscarriage. Therefore, above reliefs are strongly opposed.

4. Visited the evidence of informant as well as two medical experts. After considering the submissions of both the sides, it is emerging that by order dated 19-09-2024, learned Additional Sessions Judge, Aurangabad in Sessions Case No.51 of 2019 returned guilt of accused husband and in-laws for offence under Sections 313 and 323 read with Section 34 of the IPC. The sentence awarded is of five years each. Statement is made across the bar that applicants were on bail during trial.

5. Therefore, in the light of above discussion, 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 nos. (1) Vikram S/o Bhanudas Potphode, (2) Bhanudas S/o. Toliram Potphode, (3) Taramati Bhanudas Potphode and (4) Sagar Bhanudas Potphode in Session Case No. 51 of 2019 by the

learned Additional Sessions Judge, Aurangabad on 19-09-2024 stands suspended till the final hearing and disposal of Criminal Appeal No.881 of 2024.

- (iii) The applicants be released on P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand only) each with two solvent sureties in the like amount each.
- (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.
- (vii) 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.
- (viii) Bail before the trial Court.

(ABHAY S. WAGHWASE)
JUDGE