



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4181 OF 2024

(For Suspension of Sentence)

IN

CRIMINAL APPEAL NO. 913 OF 2024

1. Ranjit S/o. Bhanudas Puyad,
Age : 38 years, Occu. : Agril.,
 2. Sarjerao @ Balu Bhanudas Puyad,
Age : 35 years, Occu. : Agril.,
 3. Bhanudas S/o. Motiram Puyad,
Age : 64 years, Occu. : Agril.,
 4. Sanjay S/o. Govindrao Puyad,
Age : 41 years, Occu. : Agril.,
- All R/o. Punegaon, Tq. & Dist. Nanded.

... Applicants.
(Orig. Accused
Nos.1 to 4)

Versus

The State of Maharashtra,
Through Police Station Officer,
Nanded Rural Police Station, Nanded
Tq. & Dist. Nanded

... Respondent

WITH

CRIMINAL APPLICATION NO.4373 OF 2024

IN

CRIMINAL APPLICATION NO.4181 OF 2024

IN

CRIMINAL APPEAL NO.913 OF 2024

...

Mr. Mohanish Thorat, Advocate for applicants.
Mrs. Chaitali Chaudhari – Kutti, APP for Respondent - State
Mr. Vaibhav B. Dhage, Advocate for Asstt. to APP for complainant.

...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 21 OCTOBER 2024

ORDER :

1. This is an application for suspension of sentence and grant of bail as a result of conviction recorded by Additional Sessions Judge-3, Nanded in Sessions Case No.177 of 2022 recording guilt for offence punishable under sections 307, 326, 324 read with section 34 of Indian Penal Code (IPC).

2. Learned counsel for applicants pointed out that, learned trial Judge has awarded seven years imprisonment for offence under section 307 of IPC. That, admittedly, there was land dispute coupled with political rivalry. That, there are allegation of assault by iron rod. That, there is improper appreciation at the hands of learned trial court. That, case is based on circumstantial evidence. That, no independent witness is examined, but still prosecution case has been accepted. Therefore, exception has been taken to the judgment passed by learned trial court by preferring an appeal. That, applicants have good case on merits, but according to learned counsel, it would take long time to be heard. That, there was no concrete opinion about injuries to be life threatening. For all above reasons, learned counsel seeks relief of suspension of sentence and grant of bail.

He seeks reliance on the judgment of this court (Aurangabad Bench) in the case of *Usha v. The State of Maharashtra*, 2023 Cri.L.J. 4148 and judgment of Hon'ble Apex court in the case of *Sheo Shankar Singh v. State of Jharkhand and Another*, 2011 (3) SCC 654.

3. Above prayers are resisted by both learned APP as well as learned counsel for assist to APP for complainant and pointed out that there is cogent, reliable, convincing and direct eye witness account as well as injured witness account. That, injuries are on vital parts. That, article like iron rod is used and recovered. Learned counsel for assist to APP also pointed out that, applicants are habitual offender and there are criminal antecedents. Hence, both are prayed to reject the application.

4. Heard. Perused the papers. It seems that, applicants were charge-sheeted and tried for commission of offence under sections 307, 326, 324 r/w section 34 of IPC.

5. Perused the evidence of PW4, PW5, PW6 and PW7. They seem to be party to the incident of assault, there are allegations of use of iron rod. Evidence of PW8 Dr. Sagar is crucial in the light of nature of charge and on visiting doctor's evidence, it is noticed (i) fracture of left temporal sphenoid sinus wall, (ii)

Hemorrhagic contusion over left temporal region and (iii) Subdural Hematomas on both temporal regions on the person of Dhananjay and doctor has also opined that, injuries are grievous in nature. Doctor has issued opinion Exh.75 regarding potential of article rod with measurement. He has also deposed that, injuries caused on vital parts of the patient and further opined that if patient had not received timely treatment, he could have succumbed to the injuries.

6. Therefore, taking the evidence of injured witness as well as direct eye witness account into consideration, in the considered opinion of this court, it is not a fit case for extending benefit of suspension of sentence and grant of bail, more particularly, as there is already background of criminal antecedents.

7. Perused the citations relied by learned Advocate, are on full-fledge appeal. Considering the nature of application in hand, the said rulings cannot be taken aid of.

8. The criminal application No.4181 of 2024 stands rejected.

(ABHAY S. WAGHWASE, J.)