



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4186 OF 2024
IN
CRIMINAL APPEAL NO. 914 OF 2024

1. Vitthal Piraji Shrigire,
Age 73 years, Occu. Agriculture,
R/o. Kawalgaon, Ta. Degloor,
Dist. Nanded.
2. Ratnabai Vitthal Shirgire,
Age 68 years, Occu. Agril,
R/o. Kawalgaon, Tq. Degloor,
Dist. Nanded.

... Applicants
[Orig. Accused nos. 3 & 4]

Versus

The State of Maharashtra
Through Degloor Police Station, Degloor,
Taluka Degloor, District Nanded. ... Respondent

.....
Mr. Avinash Narayanrao Suryawanshi, Advocate for the Applicants.
Mr. D. R. Korade, APP for Respondent-State.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 15.10.2024
Pronounced on : 16.10.2024

ORDER:

1. Above application is pressed into service for relief of suspension of sentence during pendency of appeal and for grant of bail, on account of conviction recorded by learned Additional Sessions Judge, Biloli dated 26.09.2024 in Sessions case No. 40 of 2016.

2. Learned counsel for the applicants submitted that above applicants were tried by learned Additional Sessions Judge on charge of commission of offence punishable under Sections 498-A, 307, 504, 506 r/w 34 of the Indian Penal Code [IPC]. That, conviction has been recorded for offence under Section 307 r/w 34 of IPC and sentence awarded is of imprisonment for three (3) years. It is pointed out that there are allegations of pouring kerosene and setting on fire, but informant herself gave contradictory versions in the FIR and the testimony before the Court. That, there are good grounds for challenge in appeal which is pending. It is also pointed out that applicant nos. 1 and 2 are more than 60 years of age and more particularly, applicant no.1 is currently 73 years of age and is undergoing heart surgery and papers to that extent are placed on record. That, even after conviction, sentence has been suspended by learned trial Judge. For all above reasons, prayers are sought to be allowed.

3. Learned APP pointed out that there are 41% burns. Applicants are named. Medical papers are on record. That, offence is serious, and thus he prays to dismiss the appeal.

4. After hearing both sides and on going through the papers, it seems that both above applicants, who are parents-in-law, along with two more accused were chargesheeted by Degloor Police Station for offence punishable under sections 498-A, 307, 504 and 506 r/w 34 of IPC and by judgment and order dated 26.09.2024, conviction is awarded to present applicants, i.e. for offence under Section 307 r/w 34 of IPC and they are sentenced to suffer three years imprisonment and to pay fine, whereas, all are acquitted from rest of the offences.

5. Apparently applicants are parents-in-law. They are around 70 years of age as on today. The sessions case was of 2016 and it culminated into conviction in the year 2024. Statement is made across the bar that they were beneficiaries of anticipatory bail after FIR, and said relief continued even till conviction was recorded and further, till appeal period, they are protected. Applicant no.1, who is 73 years old, is said to be undergoing heart surgery. Medical papers to that effect are also placed on record. Considering the quantum of sentence and the submission that testimony of informant is improvised and full of material omissions and contradictions, which can be entered into at the time of appeal which is of the year 2024 and which would take long time to be heard, this court is inclined to grant relief as prayed. Accordingly, I proceed to pass the following order:

ORDER

- I. Criminal Application stands allowed.
- II. The substantive sentence imposed on the applicants Vitthal Piraji Shrigire and Ratnabai Vitthal Shirgire in Session Case No. 40 of 2016 by the Additional Sessions Judge, Biloli, District Nanded on 26.09.2024 stands suspended till the final hearing and disposal of Criminal Appeal No. 914 of 2024.
- III. The applicants be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each with two solvent sureties by 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 bail granted to the applicants.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]