



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3679 OF 2023

IN

CRIMINAL APPEAL NO. 898 OF 2023

1. Prasad s/o Ramrao Rachure
2. Saraswatibai w/o Ramrao Rachure ... Applicants

Versus

The State of Maharashtra ... Respondent

...
Mr. R. S. Deshmukh [Senior Advocate] a/w Ms. Kojagiri M. Salve i/b Mr. V.
A. Chavan and Mr. D. R. Deshmukh, Advocate for the Applicants
Mr. S. D. Ghayal, Addl. P.P. for the Respondent/State

...
CORAM : R.G. AVACHAT &
NEERAJ P. DHOTE, JJ.

DATE : 29.01.2024

PER COURT :

1. This is an Application for suspension of substantive sentence imposed upon the Applicants by the learned Additional Sessions Judge, Biloli District Nanded, in Sessions Case No.09/2017 vide Judgment and Order dated 04/08/2023, thereby convicting them for the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code and sentencing them to suffer life imprisonment and to pay fine of Rs.5000/- each, in default, to undergo rigorous imprisonment for three months.

2. Heard the learned Senior Advocate Mr. Deshmukh for the Applicants / Accused and Mr. S. D. Ghayal, learned Addl. P.P. for the Respondent / State. Learned Addl. P.P. opposes the Application and submits that the Application may not be allowed and he has strong objections for the same.

3. It is the prosecution's case that the Appellants and acquitted co-accused set on fire the victim. The case is based on three dying declarations. *Prima*

facie, three dying declarations are inconsistent to each other. In first dying declaration, it is seen that, the story of accident is narrated, whereas, in second dying declaration, it is seen that the story of suicide is narrated. The Appellants were on bail during the trial.

4. In view of the aforesaid circumstances, we proceed to pass the following order:

ORDER

- (i) The Criminal Application is allowed.
- (ii) The substantive sentence imposed by the learned Additional Sessions Judge, Biloli District Nanded vide Judgment and Order dated 04/08/2023 on the Applicants / Appellants, namely, Prasad s/o Ramrao Rachure and Saraswatibai w/o Ramrao Rachure, is suspended during the pendency of the present Appeal.
- (iii) The Applicants/ Appellants be released on bail on furnishing P.R. Bond of Rs.15000/- [Rupees Fifteen Thousand Only] each with one surety in the like amount each.
- (iii) Bail before the Trial Court.
- (iv) The Applicants / Appellants shall not change their residential address without intimation to the concerned Police Station.

7. Criminal Application stands disposed of accordingly.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]