



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3875 OF 2023
IN APPEAL/956/2023

1. Somesh @ Somnath Sukhdeo Bomble
Age: 27 years, Occu.: Agril.,
R/o. Karjule Pathar, Tq.Sangamner,
Dist.Ahmednagar.
2. Shubham S/o. Pandurang Gunjal,
Age: 24 years, Occu. - Driver,
R/o. Karjule Pathar, Tq.Sangamner,
Dist.Ahmednagar.
3. Shubham S/o Sukhdeo Bomble
Age: 26 years, Occu.: Private Job,
R/o. Karjule Pathar, Tq.Sangamner,
Dist.Ahmednagar.
Presently residing at Dalvai Nagar,
Katraj, Pune, Dist.Pune.Applicants

Versus

- . The State Of Maharashtra
Through Police Station Officer,
Ghargaon Police Station,
Ghargaon, Tq.Sangamner,
Dist.Ahmednagar.
And AnotherRespondents

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Advocate for Applicants : Mr. Satyajeet S. Dixit
APP for Respondent no.1 : Mr.S.M.Ganachari
Advocate for Respondent no.2 : Mr.Jitendra S.Jain (appointed)
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CORAM : ABHAY S. WAGHWASE, J.

DATE : 17 JANUARY, 2024

ORDER :-

1. Vide instant application, convicts applicants are praying for suspension of sentence and grant of bail in the backdrop of their conviction recorded by the learned District Judge-2 and Additional Sessions Judge, Sangamner dated 05-09-2023 for offence punishable under Sections 353 and 323 r/w 34 of the Indian Penal Code (IPC).
2. It is submitted that there is false implication. Present applicants were chargesheeted for commission of offence under Sections 353, 323, 504, 506, 427 r/w 34 of the IPC. There are allegations that there was beating and obstruction in performing duty of informant Bus Conductor. Learned trial Court has convicted applicants for offence under Sections 353 and 323 r/w 34 of the IPC and has sentenced to suffer rigorous imprisonment for three months and simple imprisonment for one month respectively. Learned Counsel pointed out that during trial, applicants were on bail and even this Court has granted interim relief.

3. While opposing the relief, learned APP submitted that applicants were named by informant. That on account of refund of Rs.2/- quarrel was picked up and Bus Conductor was beaten and hence law was set into motion. On finding sufficient evidence, conviction has been awarded.

4. On behalf of informant, relief is opposed on the ground that only on sufficiency of evidence, guilt has been recorded. There was beating to the informant. That there is possibility of misuse of liberty.

5. After considering submissions of both sides, it seems that occurrence took place on 11-06-2016. Informant is admittedly a Bus Conductor. His evidence is at Exh.14. On his complaint, crime was registered. Charge seems to be for commission of offence u/s 353, 323, 504, 506, 427 r/w 34 of the IPC. Went through the operative order of conviction. There is no dispute that during trial applicants were on bail. Taking nature of accusation into consideration and also the quantum of sentence awarded, application deserves to be allowed.

ORDER

(I) Criminal Application stands allowed.

(II) The substantive sentence imposed on the applicants in Sessions Case No.76 of 2019 by the learned District Judge-2 and Additional Sessions Judge, Sangamner on 05-09-2023 stands suspended till the final hearing and disposal of Criminal Appeal No.956 of 2023.

(III) The applicants (1) Somesh @ Somnath Sukhdeo Bomble, (2) Shubham S/o. Pandurang Gunjal and (3) Shubham S/o Sukhdeo Bomble be released on PR. 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.

(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 the bail granted to the applicants.

(VII) Bail before the trial Court.

(ABHAY S. WAGHWASE)
JUDGE