



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3960 OF 2023
IN
APEAL/1026/2023

1. Balasaheb Ginyandeo Kakde,
Age: 48 Years, Occ: Labor,
2. Namdeo Gopal Kamble,
Age: 75 Years, Occ: Labor,
3. Parmeshwar Nivrutti Maske,
Age: 51 years, Occ: Labor,
4. Raju Nivrutti Mhaske,
Age: 48 Years, Occ: Labor,
5. Shital Balasaheb Kakde,
Age: 43 Years, Occ: Labor,
6. Kantabai Trimbuk Mhaske,
Age: 53 years, Occ: Labor,

All R/o: Gahukhel. Tq: Ashti,
Dist. Beed.

... Applicants.

Versus

1. The State of Maharashtra,
Through Ambhora Police Station,
Tq: Ashti, Dist. Beed.
2. Jagannath Govind Shekde,
Age: Major, Occ: Nil,
R/o: Gahukhel. Tq: Ashti,
Dist. Beed.

... Respondents.

...
Mr. G. R. Syed, Advocate for Applicants.
Mr. S. M. Ganachari, APP for Respondent – State.
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 17th JANUARY, 2024

PRONOUNCED ON : 24th JANUARY, 2024

ORDER :

1. On account of conviction recorded by learned Additional Sessions Judge, Beed in Sessions Case No.3 of 2015, thereby convicting accused applicants for offence punishable under sections 143, 148, 324 read with section 149 of Indian Penal Code (IPC), prayers are raised vide instant application for suspension of sentence and grant of bail during pendency of appeal.

2. Learned counsel for applicants pointed out that there are cross cases. Moreover, applicants were on bail during trial. Even informant in this case, who was accused in the case filed by present applicants, he was set at liberty by this court vide order dated 09.11.2023. He further pointed out that, there was quarrel on account of dispute regarding property. It is pointed out that, even after conviction, learned trial court has granted bail till filing of appeal. Hence, on above reasons, prayers are made for suspension of sentence and grant of bail during pendency of appeal.

3. Learned APP while opposing the application submitted that, parties are neighbours and resident of same locality. There is enmity. Injuries said to be caused by use of axe and grievous injury

has been caused. There is medical evidence. For said reasons, he prays to reject the application.

4. After going through the papers, it seems that, there is controversy on account of agricultural land. Alleged occurrence seems to have taken place on 23.06.2014. However, FIR seems to have been lodged on 24.06.2014 i.e. next day. There are allegations of assault by blunt side of the axe and by sticks. Medical expert PW7 Dr. Rohini Ankushe is also examined, who has issued injury certificate. According to her, injuries were possible by hard and blunt object and were simple in nature.

5. There is no dispute that, applicants were on bail during trial. It also seems that after passing of judgment, learned trial Judge suspended the sentence till appeal period is over. Taking into account the same and the circumstances in which incident has taken place, application 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 (1) Balasaheb Ginyandeo Kakde, (2) Namdeo Gopal Kamble, (3) Parmeshwar Nivrutti

Maske, (4) Raju Nivrutti Mhaske, (5) Shital Balasaheb Kakde, (6) Kantabai Trimbuk Mhaske in Sessions Case No.03 of 2015 by the learned Additional Sessions Judge Beed on 20.10.2023 stands suspended till the final hearing and disposal of Criminal Appeal No.1026 of 2023.

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

(ABHAY S. WAGHWASE, J.)