

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.708 OF 2024
IN
CRIMINAL APPEAL NO.159 OF 2024**

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Riyaz @ Giyasoddin Ahmadsab Rangrej & Ors. ..Applicants
Versus
The State of Maharashtra & Ors. ..Respondents

Mr. Jaydeep D. Mane, for the Applicants.
Mr. P. P. Devkar, APP for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 13th MARCH, 2024

PC.

1. Heard.

2. In spite of service, none appears for Respondent Nos.2 to
6. Report of service is produced by learned APP.

3. Applicants filed this Application for suspension of sentence and release them on bail in connection with judgment and order passed by the learned Additional Sessions Judge, Solapur dated 07.02.2024 in Sessions Case No.279 of 2019. Fourteen accused/Applicants were on bail in view of order passed by this Court. Other three accused persons were released on regular bail by the Trial Court. Learned advocate for the Applicants vehemently argued that the maximum sentence awarded is seven years for the offence punishable under Section 307 of IPC and pay fine of

Rs.1000/- and in default to undergo imprisonment for one month. For offences under Section 143, 147, 148, 323, sentence awarded is RI for six months. For the offence punishable under Section 506 r/w 149 of IPC, sentence awarded is only one year. Applicants are acquitted from the offence under Section 324 and 504 r/w 149 of IPC. The compensation is directed to be paid to the victim/informant and injured witnesses. His further submission is that though the Applicants are convicted under Section 307 of IPC, learned Judge himself in paragraph 60 of the judgment has observed that there was no intention of the accused persons to cause murder of the informant and other witnesses. It was only accused No.1/Mahiboob @ Daula who is not before the Court, assaulted the injured with iron rod on head. He thus submits that when it is observed in the judgment itself that there was no intention to cause murder of the injured, there is no question of convicting the Applicants for the offence under Section 307 of IPC. He thus prays for suspension of sentence and release of Applicants on bail.

4. Learned APP by pointing out injury certificate submits that from the injuries, it is clear that the injuries are serious and there was certainly intention to commit murder by accused Mahiboob @ Daula. He thus prays for rejection of the Application.

5. Considering the above, this Court finds that main allegation is against Mahiboob @ Daula who is not before the Court. Learned Judge has observed that there was no intention to commit

murder of the informant and other injured witnesses on the part of these Applicants. Considering the other sections, punishment is not more than one year. *Prima-facie*, it is demonstrated that the conviction under Section 307 of IPC is without any material and the evidence on record. This Court is therefore inclined to allow the present Application. Hence, the following order:-

- i) The Application is allowed.
 - ii) The substantial sentence awarded by learned Additional Sessions Judge, Solapur dated 07.02.2024 in Sessions Case No.279 of 2019 stands suspended.
 - iii) Applicants shall be released on bail on furnishing PR bond and solvent surety each in the sum of Rs.15,000/-.
 - iv) Applicants shall attend concerned Police Station as and when required.
 - v) Applicants shall furnish contact details including their mobile number to the concerned Police Station. If there is any change in contact details as mentioned above, Applicants shall immediately inform to the concerned Police Station.
 - vi) This order is subject to payment of fine by the Applicants before the Trial Court.
6. The Application stands disposed of.

[KISHORE C. SANT, J.]