

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1557 OF 2024
IN
CRIMINAL APPEAL NO. 391 OF 2024

Kashinath @ Kashappa Hanmant ... Applicant/Appellant
Panchamgiri and Ors.

V/s.

State of Maharashtra and Ors. ... Respondents

Mr. Jaydeep Mane, for the appellant/applicant.

Mr. Umesh Mankapure with Ms. Stefy J. Dias, for the respondent nos. 2 and 3.

Mr. Babu Holambe Patil, APP, for the State.

CORAM : KISHORE C. SANT, J.

DATE : 3RD MAY 2024.

PC:

1. Heard.
2. This application is by the accused persons seeking suspension of sentence as awarded by the learned Additional Sessions Judge, Solapur in Sessions Case No. 99 of 2016 dated 27/03/2024. The applicants are held guilty for the offences punishable under Sections 147 and 148 of Indian Penal Code and under Sections 307,

324 and 341 read with 149 of the Indian Penal Code. The awarded sentences are as stated below:

Sr. No.	Sections	Punishment	Fine Amount
1.	147 of IPC	R.I. 6 months each	----
2.	147 of IPC	R.I. 6 months each	---
3.	307 r/w. 149 of IPC	R.I 7 years each	Rs.1,000/- each and in default, to undergo RI for 30 days
4.	324 r/w. 149 of IPC	R.I 3 years each	Rs.200/- each and in default, to undergo imprisonment for 8 days
5.	341 r/w. 149 of IPC	----	Rs.200/- each and in default, to undergo imprisonment for 8 days

3. In addition to sentence the accused are directed to pay compensation of Rs. 3000/- each to the informant and Rs. 10,000/- each to the injured Bhima respectively within two months.

4. It is the case of the applicants that prosecution has not proved the offence under section 307. There is nothing on record to show that the applicants had any intention to commit the murder of the injured. This Court has gone through the evidence and *prima facie* case is made out to suspend the sentence as pointed out from the

evidence of PW-9 i.e. PSI who deposed that when one of the applicants Samir Birajdar was arrested. He was seriously injured. His clothes were also become blood stained. He could not told as to whether the accused also have filed complaint.

5. Learned APP submits that it was necessary for the prosecution to explain the injuries on one of the applicants.

6. Learned APP and learned advocate appointed for respondent nos. 2 and 3 oppose the application. Learned APP submits that there is evidence of the injured witness which is duly corroborated by the medical evidence. The applicants were waiting for injured and the informant to come to the spot. After they reach the spot applicants assaulted the injured with weapons like stick and iron rod etc. The witness Bhima had also become unconscious. He thus submits that no case is made out to grant bail.

7. Considering all the above aspects, this Court finds that as the applicants were on bail during the trial and there is no complaint of misuse of liberty. Later on Samir Birajdar came to be arrested on 04/10/2022 by issuing non bailable warrant as he was not attending the trial. They also paid find amount. This Court is inclined to allow the application. Hence, the following order.

O R D E R

- i) Application is allowed.
- ii) Substantive sentence awarded by the Additional Sessions Judge, Solapur in Sessions Case No. 99 of 2016, dated 27/03/2024, stands suspended.
- iii) The applicants shall be released on bail on furnishing P.R. bond of Rs. 15,000/- each and one solvent surety in the like amount.
- iv) The applicants shall attend the police station once in month i.e. on second Saturday between 11.00 a.m to 1.00 p.m.
- v) The applicants shall not contact the victim.
- vi) The applicants shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details the same will be immediately informed to the concerned police station.

8. With this, the application is disposed of accordingly.

(KISHORE C. SANT, J)