

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4126 OF 2023

IN

CRIMINAL APPEAL NO.1231 OF 2023

Basavraj Husanappa Maingalmani & Ors. : Applicants

Vs.

The State of Maharashtra & Ors. : Respondents

Adv. Ritesh M. Thobde (through V.C.) a/w Adv. Zubi Ansari & Adv
Changdev S. Shingade, for the Applicants.

Mr. A. R. Patil, APP for the State.

Adv. M. S. Mulla, for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 8TH MAY, 2024

PC. :

1. Heard the learned Advocate for the Applicant and Learned
APP and learned Advocate for the Respondent No.2.

2. This Application is preferred seeking suspension of sentence
and release of the Applicants on bail. All the Applicants are before this
Court are held guilty of the offenses punishable under Section 143, 147,
148, 307 read with Section 149 of the Indian Penal Code. They are
sentenced as below:-

Sr. No.	Sections	Punishment	Fine Amount
1.	307 r/w 149 of IPC	7 years	Rs.1000/-, by each in default, to undergo R.I. for 30 days.
2.	143 of IPC Act	3 months	Rs.200/-, by each in default, to undergo R.I. for 10 days.
3.	147 of IPC Act	6 months	Rs.500/-, by each in default, to undergo R.I. for 15 days.
4.	148 of IPC Act	6 months	Rs.500/-, by each in default, to undergo R.I. for 6 months.

3. They are also directed to pay to the injured Rs.15,000/- each and in default to undergo S.I. for 3 years.

4. Though the allegation is that the Applicants assaulted injured witnesses PW-2, PW-5 & PW-7 with the weapon like sword, base ball bat etc. The Victims received injuries. The learned Trial Court on the basis of evidence held the Applicants guilty of the offences as alleged. However, they are acquitted for other offence punishable under Section 323 read with Section 149. Learned Advocate has taken this Court through deposition of PW-2 & PW-5 the injured witnesses. In the evidence they have not specifically stated the role of the accused persons. He further pointed out that there are no injuries caused by any sharp weapon. There is no incised wound. The injuries are simple. Two injuries are contused

lacerated wounds on the person of Mehboob i.e. injured witness. He thus submits that the injuries do not correspond to the medical evidence. From the evidence of PW-2 Irfan it is seen that it is he who intervened in the quarrel. He stated that he saw a quarrel going between Basavraj & Chand. It is he, who went to pacify the quarrel. It is thereafter the Accused/Applicants assaulted this witness. It is alleged Basavraj used sword and given blow on Irfan. Against Ganesh also similar allegations that he assaulted by sword on the head. As per the allegation Suresh assaulted by cycle chain on the right shoulder.

5. Learned APP and learned Advocate for the Respondent No.2 vehemently oppose the Application stating that there are 3 witnesses who are consistent and their evidence corroborates each other. The Accused have allegedly used a weapon like sword, whereas persons injured are Usuf & Irfan. They submit that Applicants had intention to commit murder and they oppose the bail application.

6. Thus considering this evidence, this Court finds that *prima facie* no case is made out under Section 307 of the Indian Penal code. This Court finds that the sentence is of fix term of 7 years. During the trial they were on bail. The fine amount is already paid. For these reasons, this Court is inclined to allow the Application. Hence the following order.

ORDER

- (a) The Application is allowed.
- (b) The substantive sentence awarded by the learned Sessions Judge, Solapur in Sessions Case No.188 of 2014 by order dated 12th October, 2023 stands suspended.
- (c) Applicants shall be released on bail on furnishing P.R. Bond and solvent surety in the sum of Rs.15,000/-.
- (d) They shall keep informed concerned Police Station about residential address, mobile number etc. and other contact details till the final disposal of the Appeal.
- (e) They shall attend the Salgarvasti police station once in two months on second Saturday of the alternate month starting from May, 2024 between 11.00 a.m. to 1.00 p.m.
- (f) Application stands disposed of.

(KISHORE C. SANT, J.)