

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

INTERIM APPLICATION NO. 3378 OF 2023

IN

CRIMINAL APPEAL NO. 1029 OF 2023

Ishwar Ramu Nagurdekar And Ors.

... Appellants/Applicants

Vs.

The State of Maharashtra

... Respondent

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Mr. Satyavrat Joshi, for the Appellant/Applicant.

Mrs. M. R. Tidke, APP for State.

Adv. Shankar Katkar, for the Respondent No. 2, appointed through legal aid.

CORAM : KISHORE C. SANT, J.

DATE : 22nd March, 2024

PC:-

1. Heard the learned Advocate. This Application is for suspension of sentence and released of Original Accused Nos. 2, 4 and 5. The Original Accused No. 3 Shanta i.e. present Applicant No. 2 is already released on bail by this Court.

2. The present Applicant Nos. 1, 3 and 4 are Original Accused No. 2, 4 and 5 they are convicted by the Additional Sessions Judge, Gadhinglaj, in Sessions Case No. 5/2017 dated 05.09.2023, for the offence punishable under Sections, as under:-

Sr. No.	Sections	Punishment	Fine Amount
1.	307 r/w 34 of IPC	R.I. 5 years	Rs. 10,000/-, in default, to undergo R.I. for 1 year.
2.	323 r/w 34 of IPC	S.I. 6 months	Rs.500/-, in default, to undergo R.I. for one month.
3.	504 r/w 34 IPC	R.I. 6 months	Rs.500/-, in default, to undergo R.I. for one month.

3. The learned Advocate for the Applicant submits that a sentence is short sentence the Applicant have already deposited an amount of fine the Applicants were on bail during the trial. On merits he submits that even if the evidence of the injured witnesses is taken as it is it shows that there was a blow given only by Accused No. 1 who died during the trial. The quarrel took place at the spur of the movement and there is no pre meditation to attract Section 34. He thus submits that the chances of acquittal are strong. He prays for bail.

4. The learned APP and learned Advocate for Respondent No. 2 vehemently oppose the Application. Considering the *prima facie* case this Court finds that there is no specific role assigned to any of these Applicants except that there was quarrel between Applicant No. 2-Shanta and the Informant. This Court finds that case is made out as the sentence is short and appeal is not likely to be heard in the near future. Hence following Order:-

ORDER

- a) Application is allowed.
- b) The sentence awarded by the Additional Sessions Judge, Gadhinglaj, in Sessions Case No. 5/2017 dated 05.09.2023 , stands suspended.
- c) The Applicants No. 1, 3 & 4 i.e. Original Accused No. 2, 4 and 5 shall be released on bail on furnishing P. R. bond and solvent surety in the sum of Rs. 15,000/- before the Trial Court.
- d) The Applicants shall furnish contact details including mobile number etc., to the concerned Police Station.
- e) Applicant shall keep informed about any change in above mentioned contact details immediately to the concerned Police Station.

5. Interim Application stands disposed of.

(KISHORE C. SANT, J.)