

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 3727 OF 2023****IN****CRIMINAL APPEAL NO. 1131 OF 2023**

Dilip Dattatray Badekar

.....Applicant

Vs.

State Of Maharashtra

.....Respondent

WITH**INTERIM APPLICATION NO. 3725 OF 2023****IN****CRIMINAL APPEAL NO. 1130 OF 2023**

Kishor Dattatray Badekar

.....Applicant

Vs.

State Of Maharashtra

.....Respondent

WITH**INTERIM APPLICATION NO. 3732 OF 2023****IN****CRIMINAL APPEAL NO. 1132 OF 2023**

Manohar Laxman Badekar

.....Applicant

Vs.

State Of Maharashtra

.....Respondent

Dr. Yug Mohit Chaudhry a/w Mr. Aayush Shetty for the Applicant/s.
Mr. S.V. Gavand APP for the Respondent-State.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.
DATE : 18th JANUARY, 2024.**

P.C.:-

1) These Applications are preferred for suspension of sentence and releasing the Applicants on bail by Original accused Nos.1-Dilip Badekar, accused No.2-Kishor Badekar and accused No.3-Manohar Badekar respectively.

2) It is the prosecution case that, on the date of incident i.e. on 20th May, 2016, a quarrel took place between the group of Applicants on one side and the group of informant on the other side over excavation of mud from the plot of land adjoining to the informants land. Initially a free fight took place between the two groups. It is stated that, in the said fight, accused No.1 assaulted with iron rod, accused No.2 assaulted with handle of spade and accused Nos.3 assaulted with the handle of pick-axe on the head of deceased Kisan Karnuk. Manik Karnuk (P.W. No.4) in his evidence has stated that, the accused persons assaulted the deceased and other injured eye-witnesses with iron rods and wooden rafters.

3) Dr. Basavraj S. Lohare (PW No.9) conducted autopsy on the dead body of Kisan Karnuk and found one external injury of temporal parietal region and two corresponding internal injuries thereof.

3.1) It appears to us that, there are material contradiction in the

version of eye-witnesses with respect to the number of injuries suffered by the deceased than what has been stated by the autopsy surgeon. Record indicates that, the deceased succumbed to his injury on 22nd May, 2016 i.e. after 2 days of the alleged assault.

4) Perusal of record *prima facie* indicates that, the Applicants were not having intention to commit murder of Kisan Karnuk. Record further indicates that, accused Nos.1 and 3 have also suffered grievous injuries in the said fight. The Applicants are in incarceration for about 7 and half years as of today and the possibility of hearing their substantive Appeals in near future is remote.

5) In view of the above, during the pendency of their Appeals, we are inclined to suspend the sentence and release the Applicants on bail.

Hence, the following order:-

ORDER

- (a) During the pendency of present Appeals, Applicants be released on bail in Sessions Case No.220 of 2019 arising out of C.R. No.85 of 2016 registered with Karjat Police Station, District Raigad on their furnishing P.R. bond of Rs.25,000/- each with one or more separate local sureties to make up the amount;
- (b) After their release from jail and during the pendency of these Appeals, Applicants shall attend Karjat Police

Station, District Raigad on every first Monday of the month between 10.00 am and 12 noon, initially for a period of one year and thereafter on every first Monday of every third calendar month i.e. four times in a year between 10.00 am and 12 noon;

- (c) Applicants shall inform their prospective residential address to the trial Court. Applicants shall keep informed the trial Court any changes in their residential address and their mobile numbers, on which they can be contacted.
 - (d) If there are two consecutive defaults in marking presency as directed in para (b) above, the prosecution will be at liberty to file Applications for cancellation of bail.
 - (e) Applicants shall make themselves available at the time of final hearing of the Appeals.
- 6) All the Application are allowed in the aforesaid terms.
- 7) All the concerned to act on the basis of an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR
Digitally signed
by SANJIV
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MASHALKAR
Date:
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