

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 390 OF 2024**

1. Yogesh Changdev Pawar
2. Pankaj Changdev Pawar

}Appellants

: Versus :

1. The State of Maharashtra
(at the instance of the P.I. Yeola
Taluka Police Station, Nashik)(
2. XYZ

}Respondents

Mr. Dushyant Digamber i/by. Mr. Amit Icham, for the Appellants.

Ms. Shilpa K. Gajare-Dhumal, APP for State- Respondent No.1.

Mr. Narayan Rokade a/w. Mr. Abhijeet U. Pawar for Respondent No.2.

CORAM : SANDEEP V. MARNE, J.

Dated : 21 June 2024.

P.C. :

1) The learned counsel appearing for the Appellants, seeks leave to withdraw the Appeal on the ground that the Appellants have already been released on bail by the Special Court.

2) The learned counsel for Respondent No.2 would oppose withdrawal of the Appeal submitting that the Appellants did not disclose

before the Special Court while seeking regular bail that the present Appeal was pending before this Court. According to him, this is in violation of the ratio of the judgment of the Apex Court in **Kusha Duruka Vs. The State of Odisha**¹. Additionally, he would complain that the First Informant was not given notice or heard while grant of regular bail to the Appellants.

3) The Respondent No.2 would be at liberty to file appropriate application before the Special Court for cancellation of bail granted to the Appellant, both on the grounds of failure to inform the Special Court about pendency of the present Appeal, as well as, non-grant of opportunity of hearing to Respondent No.2 while granting regular bail. Such application, if and when filed by Respondent No.2, shall be dealt with by the learned Special Judge on its own merits.

4) In the meantime, the Appellants to file Affidavit explaining the reasons for non-disclosure of pendency of the present Appeal while seeking regular bail from the Special Court. Affidavit to be filed without one week.

5) List the Appeal '*for directions*' on **3 July 2024**.

NEETA
SHAILESH
SAWANT

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2024.06.24
11:23:57
+0530

[SANDEEP V. MARNE, J.]

¹ Cri.Appeal No.303 of 2024 decided on 19.01.2024