

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

**INTERIM APPLICATION NO.1842 OF 2024
IN
CRIMINAL APPEAL NO.447 OF 2024**

Sanjay Tukaram KshatriApplicant
Versus
State of Maharashtra Respondent

**.....
WITH
INTERIM APPLICATION NO.1843 OF 2024
IN
CRIMINAL APPEAL NO.447 OF 2024**

Abhimanyu Laxman SasveApplicant
Versus
State of Maharashtra Respondent

**.....
WITH
INTERIM APPLICATION NO.1957 OF 2024
IN
CRIMINAL APPEAL NO.447 OF 2024**

Shamrao Chandrasha SasveApplicant
Versus
State of Maharashtra Respondent

**.....
WITH
INTERIM APPLICATION NO.1956 OF 2024
IN
CRIMINAL APPEAL NO.447 OF 2024**

Jagubai Dattu SasveApplicant
Versus
State of Maharashtra Respondent

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WITH
INTERIM APPLICATION NO.1955 OF 2024
IN
CRIMINAL APPEAL NO.447 OF 2024

Ratnabai Shamrao SasveApplicant
Versus
State of Maharashtra Respondent

Mr. S.H. Salunke, Advocate for the Applicant in all IAs.
Mr. Swapnil V. Valve, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th JUNE, 2024

P.C. :

1. In all these Interim Applications, a common order is passed today because they arise out of the same Appeal.

2. Heard Mr. S.H. Salunke, learned counsel for the Applicant in all IAs and Mr. Swapnil Valve, learned APP for the Respondent-State.

3. At the outset, learned counsel for the Applicants states that he is not pressing the application for the Appellant – Abhimanyu Sasve being I.A. No.1843/2024 in Cri.Appeal No.447/2024. He seeks liberty to file fresh application for bail

after a reasonable time. Considering his prayer, said application i.e. I.A. No.1843/2024 in Cri.Appeal No.447/2024 is disposed of as withdrawn. Said Applicant - Abhimanyu Sasve is at liberty to file a fresh application for bail after a reasonable time.

4. The Applicants were the original accused in Sessions Case No.153/2018 before the Additional Sessions Judge, Solapur. All the Applicants were convicted and sentenced by the learned trial Judge vide her judgment and order dated 15.4.2024. They were convicted under Sections 307, 143, 147, 148 read with 149 of IPC and they were sentenced to suffer RI for ten years and to pay fine of Rs.1,000/- each and in default of payment of fine to suffer RI for 30 days. This major sentence was awarded for the offence under Section 307 read with 149 of IPC. For the other offence, lesser sentence was awarded. All the substantive sentences were directed to run concurrently.

5. The prosecution case is that the incident took place on 23.4.2017. At that time the Applicants Ratnabai and Jagubai came in front of the house of the first informant Suresh. They started abusing him. They were joined by the other accused.

The Applicant - accused Abhimanyu also assaulted the first informant on his head with a sword. The Applicant – accused Sanjay assaulted him with a stick. The Applicant – accused Shamrao assaulted him with a stick on his leg. Then the informant's wife Indubai tried to intervene. The Applicant – accused Abhimanyu assaulted her on her chest and right shoulder. The Applicants – accused Jagubai and Ratnabai threw chilly powder on the first informant. The others were also assaulted. On this basis, the FIR was lodged and the investigation was carried out. The accused faced the trial.

6. Learned counsel for the Applicants submitted that there are discrepancies in the evidence of the witnesses. There was cross-case in which the accused Abhimanyu had suffered head injury at the hands of PW-1 himself. Therefore, all these factors be considered. He submitted that the Applicants were on bail during trial and they have not misused that liberty.

7. Learned APP opposed these submissions. According to him, there is sufficient material against all these Applicants.

8. I have considered these submissions. The prosecution has examined other eye witnesses, namely, PW-3 Ankush Sasve, PW-4 Indubai Sasve who was an injured eye witness, PW-5 Priyanka Sasve who was an eye witness. Their version is similar as that of PW-1. The important evidence is of PW-6 Dr. Geeta Gawade. She had examined the injured witnesses in this case. There was one grievous injury on the head of PW-1 Suresh Sasve of the size 6 x 2 x 1 cm resulting in comminuted fracture of right parietal bone and occipital bone extending upto left side of skull base. There was blunt trauma on the chest and blunt trauma on the left lumbar region. This particular injury was specifically attributed to the Applicant – accused Abhimanyu.

9. Indubai had suffered grievous injury on the shoulder and simple injury on the chest. This grievous injury was also attributed to Abhimanyu. Ankush had suffered three simple injuries on the head. Gunduraj had suffered simple injury on the head and grievous injury on the hand. Laxman had suffered simple injuries. Ujwala had suffered simple injuries.

10. Thus, the major injury, in this case, was suffered by PW-1, which was specifically attributed to the Applicant – accused Abhimanyu. It would be important to examine whether the other accused had shared common object with Abhimanyu in causing those injuries. At this stage, it appears that except for that one particular blow given by Abhimanyu, rest of the injuries were not life threatening. Therefore, there is substance in the argument of learned counsel for the Applicants that common object of the assembly may not be to commit offence punishable under Section 307 of IPC; and at this stage the Applicant – accused Abhimanyu's role can be separated from those of the other accused. At this stage, Abhimanyu's Bail Application is already withdrawn. The other accused Applicants can be granted bail during pendency of Appeal. They were on bail during trial and they had not misused same.

11. Hence, the following order:

ORDER

- (i) Interim Application No.1843/2024 in Cri. Appeal No.447/2024 is disposed of as withdrawn with liberty to file a fresh application for bail after a reasonable time.
- (ii) In I.A. Nos.1842/2024, 1955/2024, 1956/2024, 1957/2024, during pendency and final disposal of Criminal Appeal No.447/2024, the Applicants – Sanjay Kshatri, Ratnabai Sasve, Jagubai Sasve and Shamrao Sasve are directed to be released on bail on their executing P.R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (iii) Interim Applications are disposed of accordingly.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

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Date: 2024.06.19
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(SARANG V. KOTWAL, J.)