

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL INTERIM APPLICATION NO. 2709 OF 2024****IN****CRIMINAL APPEAL NO. 718 OF 2024**

Rajendra @ Raju Haribhau Shinde and Anr.

... Applicants

Versus

State of Maharashtra

... Respondent

.....

Mr. Kuldeep Patil a/w. Mr. Suhas B. Rohile, Advocate for the Applicants.

Mr. Swapnil V. Walve, APP for the Respondent – State.

CORAM : SHIVKUMAR DIGE, J.**DATED : 17th OCTOBER, 2024.****P.C. :**

1. Applicants are seeking suspension of sentence in C.R.No. 282 of 2024 and bail in Sessions Case No. 505 of 2017.
2. Applicants have been convicted under Section 307 read with 34 of Indian Penal Code, 1860 and they are sentenced to suffer imprisonment for the term of 10 years each along with fine of Rs.10,000/- each in default simple imprisonment for six months each.
3. It is prosecution's case that applicants have tried to kill the informant by firing at him. The applicant No.1 had fired at informant with intention to kill him thereafter he ran away from the incident spot. It is alleged that applicant No.2 took him on his motorcycle and helped him to ran away from the incident spot.

4. It is contention of learned counsel for the applicants that applicant No.1 is behind bar for more than five years. He has undergone half of the sentence. Applicant No.2 was on bail during the trial. He has not misused liberty. The allegations against him that he helped applicant No.1 to ran away from the incident spot. Learned counsel further submitted that there are discrepancies in the evidence of informant but these facts are not considered by the Trial Court. Applicants are below 35 years. They are karta of their family. It may take time to dispose of the appeal hence requested to allow the application.

5. It is contention of learned APP that applicants in connivance had tried to kill the first informant by firing at him. Applicant No.1 fired by pistol at first informant with the intention to kill him. Thereafter, applicant No.2 who was present near the incident spot took the applicant No.1 on his motorcycle and ran away. The police has seized motorcycle used in the crime at the instance of applicant No.2. The involvements of the applicants in the crime are proved before the Trial Court. Accordingly, they have been sentenced. The pistol used in the crime is recovered at the instance of applicant No.1. If they released on bail they may abscond hence requested to reject the application.

6. I have heard both the learned Counsel. Perused the judgment and order and evidence produced on record. Allegations against the applicant

No.1 are that he tried to kill first informant by firing at him through pistol. Whereas allegations against the applicant No.2 are that he helped the applicant No.1 to run away from the incident spot. Applicant No.1 is behind bar more than five years and eight months. Applicant No.2 was on bail during trial he has not misused liberty. There are no criminal antecedents of the applicants. They are karta of their family. It may take time to dispose of the appeal. Considering these facts, I am inclined to allow the bail application and I pass following order:

7. In view of above, the applicants' sentence are suspended and they are enlarged on bail, pending the hearing and final disposal of the appeal, on the following terms and conditions :

ORDER

(i) The applicants be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

8. The Interim Application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)