



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 359 OF 2025
IN CRIMINAL REVISION APPLICATION NO. 35 OF 2025
WITH
CRIMINAL REVISION APPLICATION NO. 35 OF 2025**

1. Shaikh Amjad Shaikh Turab,
Age : 36 Years, Occu. : Agriculture,
R/o. Tanaji Nagar, Majalgaon,
Dist. Beed.
2. Shaikh Mehtab Shaikh Turab,
Age : 39 Years, Occu. : Agriculture,
R/o. Tanaji Nagar, Majalgaon,
Dist. Beed.
3. Shaikh Aftab @ Raju Shaikh Turab,
Age : 43 Years, Occu. : Agriculture,
R/o. Tanaji Nagar, Majalgaon,
Dist. Beed.

**... Applicants
(Orig. Accused
Nos.1 to 3)**

VERSUS

The State of Maharashtra
Through Police Inspector,
City Police Station, Majalgaon
Tq. Majalgaon, Dist. Beed.

... Respondent

.....
Advocate for Applicant : Mr. Vijay B. Jagtap a/w Mr. M.T. Kulkarni
APP for Respondent-State : Mrs. Vaishali S. Chaudhari
.....

CORAM : ABHAY S. WAGHWASE, J.

Dated : 28.01.2025

ORDER :

1) In present application, judgment and order dated 18.07.2023, passed by learned Additional Sessions Judge, Majalgaon in Criminal Appeal No.19/2017, arising out of judgment and order dated 18.04.2017, passed by learned Judicial Magistrate First Class, Court No.1, Majalgaon, has been taken exception by filing revision.

2) Learned counsel for the applicants pointed out that, the applicants were tried by learned Judicial Magistrate First Class, Court No.1, Majalgaon vide RCC No.04/2014, for offences under Sections 326, 325, 323, 337, 504, 147, 148 read with Section 149 of the Indian Penal Code. However, by judgment and order dated 18.04.2017, they were acquitted for all offences except Section 324 of IPC and are sentenced to suffer one year imprisonment. He further pointed out that, against said judgment and order, appeal was preferred before learned Additional Sessions Judge, Majalgaon, bearing Criminal Appeal No.19/2017. He further pointed out that, the appeal was not prosecuted, therefore, learned First Appellate Court by order dated 18.07.2023, dismissed the appeal for want of prosecution and moreover, set-aside the order of suspension of sentence dated 18.05.2017 and since then, the applicants are behind the bars.

3) Learned APP objected the present application. She submits that, in spite of appeal being filed, there was no due diligence in conducted the appeal. That, it was of the year 2017. Therefore, when, in spite of several adjournments, none appeared to contest the appeal, learned First Appellate Court dismissed the appeal for want of prosecution and consequent order of setting aside suspension of sentence order has been rightly passed.

4) After hearing both sides and on going through the papers, it seems that, the present applicants were booked for above offences and were also tried by learned JMFC vide RCC No.04/2014. On appreciation of evidence, learned JMFC was pleased to acquit the applicants form all charges except Section 324 of IPC and they were sentenced to suffer one year imprisonment and to pay fine.

5) Said judgment further seems to have challenged by filing Criminal Appeal No.19/2017, before learned Additional Sessions Judge, Majalgaon and said learned First Appellate Court seems to have passed order on 18.07.2023, dismissing the appeal for want of prosecution and also set-aside the order of suspension of sentence dated 18.05.2017 and on warrant, the applicants are shown to be taken in custody.

6) Learned counsel for the applicants prays that, impugned order dated 18.07.2023 passed by the learned Appellate Court, may kindly be quashed and set-aside and appeal be remanded back and also to set-aside the order of suspension of sentence dated 18.07.2023. Learned counsel undertakes that, appeal would be prosecuted diligently, without further delay.

7) This court has already condoned the delay caused in filing criminal revision. Apparently, Criminal Appeal No.19/2017 was dismissed for want of prosecution. Therefore, as a fair opportunity, appeal is required to be remanded back to the learned First Appellate Court for further consideration and consequently, the order of setting aside of suspension of sentence order dated 18.05.2017, passed by learned First Appellate Court on 18.07.2023, is required to be set-aside by allowing the present bail application. Hence, following order is passed.

ORDER

- i) Criminal Application No.359/2025 and Criminal Revision Application No.35/2025 is allowed.
- ii) The impugned order dated 18.07.2023, passed by the learned Additional Sessions Judge, Majalgaon, dismissing the Criminal Appeal No.19/2017 is hereby quashed and set-aside.

- iii) The applicants be released on bail on executing P.B. of Rs.15,000/- (Rupees Fifteen Thousand Only) each with one surety each in the like amount.
- iv) Bail before the trial court.
- v) Record and proceedings of Criminal Appeal No.19/2017 be remanded back to the learned First Appellate Court.
- vi) The appellants to prosecute the appeal by causing their appearances before the learned First Appellate Court, within a period of one month.
- vii) Criminal Application as well as Criminal Revision Application are disposed off accordingly.

[ABHAY S. WAGHWASE, J.]

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