



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 388 OF 2025
IN
CRIMINAL APPEAL NO. 75 OF 2025

1. Prakash s/o Dhondiraj Sontakke,
Age – 37 years, Occu. : Labour,
R/o Dongaon, Tq. Mukhed,
Dist. Nanded.

2. Ratnamala Dhondiraj Sontakke,
Age – 65 years, Occu.: Household
R/o Dongaon, Tq. Mukhed,
Dist. Nanded.

... Applicants
(Orig. Accused)

Versus

The State of Maharashtra
Through Police Station, Sonkhed,
Tq. Loha, Dist. Nanded.

... Respondent

.....
Mr. S. B. Bhapkar, Advocate for the Applicants.
Mr. V. M. Chate, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

ORDER : 10.02.2025

ORDER :

1. Instant application is for suspension of sentence and grant of bail on account of conviction recorded by learned Additional Judge-2, Kandhar in Sessions Case No. 59 of 2016 for offence under sections 498-A, 306 r/w 34 of IPC respectively.

2. Learned counsel pointed out that applicants are husband and mother-in-law. On trial, they are convicted for above offence and they are sentenced to suffer imprisonment for five years and one and half years respectively for each of the above offences. He specifically pointed out that learned trial Judge has directed fine to the tune of Rs.1,25,000/- to applicant no.1 and Rs.25,000/- to applicant no.2, to be paid which is apparently exorbitant for appellants who are landless. That, it is a case of immolation. That, applicants were on bail during trial. They have preferred appeal. They are behind bars and are not in position to pay fine to the extent of such huge amount. According to him, as appeal against conviction would take long time to be heard, he urged for relief of suspension as well as grant of bail.

3. Learned APP opposed on the ground that, on full fledged trial guilt has been recorded. Applicant husband was present when the incident took place. Therefore, he opposed relief of suspension as well as bail.

4. Heard. Perused the papers. Apparently, applicants were tried vide Sessions Case No. 59 of 2016 on charge of Section 498-A and 306 of IPC and vide judgment and order dated 08.01.2025 both, husband and mother-in-law, are held guilty. Said judgment is challenged by way of appeal and the same appears to be numbered as

Criminal Appeal No. 75 of 2025 i.e. in the last month itself. Consequently, appeal being recent, may not be heard early. Applicants were reported to be on bail during trial. Learned APP does not dispute that deceased immolated herself. Therefore, in the light of above discussion, relief of suspension of sentence deserves to be granted. Operative part, as pointed out, shows that learned trial Judge has imposed payment of fine by applicant no.1 to the tune of Rs.1,25,000/- and by applicant no.2 to the tune of Rs.25,000/-, and in the judgment title clause itself, occupation of accused is shown as labours. Therefore, *prima facie*, order of payment of fine does appear to be excess and exorbitant. As regards to payment of fine is concerned, in view of judgment of Hon'ble Supreme Court in the case of ***Satyendra Kumar Mehra v. State of Jharkhand*** (2018) 15 SCC 139, non payment of fine would not come in way for granting relief of suspension and grant of bail during pendency of appeal. Hence, I proceed to pass the following order :

ORDER

- I. Criminal Application stands allowed.
- II. The substantive sentence imposed on the applicants in Sessions Case No. 59 of 2016 by the learned Additional Sessions Judge-2, Kandhar on 08.01.2025, stands suspended till the final hearing and disposal of Criminal Appeal No. 75 of 2025.

- III. The applicants be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) each with one solvent surety each, in the like amount.
- IV. The applicants shall not commit any criminal activity.
- V. The applicants shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date they tender bail papers and thereafter, the trial Judge to fix dates for their subsequent appearances.
- VI. In case of two consecutive defaults on the part of the applicants to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicants.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]