



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3301 OF 2024
IN
CRIMINAL APPEAL NO. 727 OF 2024

1. Arun @ Mukesh Shyam Sonawane (Panchal),
Age : 28 years, Occu. : Occu. : Labour,
2. Vishal Sahebrao Sonawane (Panchal),
Age : 25 years, Occu. : Labour,
Both are R/o. Varshi,
Tq. Sindhkheda, Dist. Dhule. ... Applicants

Versus

1. State of Maharashtra,
Through Nardana Police Station,
Tq. Sindhkheda, Dist. Dhule ... Respondent.

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Mr. Jitendra V. Patil, Advocate for Applicant.

Mr. V. M. Jaware, APP for Respondent - State.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 24 APRIL 2025

PRONOUNCED ON : 05 MAY 2025

ORDER :

1. Present application is for suspension of substantive sentence and grant of bail on account of conviction recorded by Additional Sessions Judge, Dhule in Sessions Case No. 228 of 2021, decided on 27.06.2024.

2. Learned counsel for applicants pointed out that, applicants were tried by learned Additional Sessions Judge, Dhule for

commission of offence punishable under sections 302, 323, 504 and 506 read with section 34 of Indian Penal Code. However, present applicants are concerned, conviction came to be recorded under section 304 Part II and 323 of IPC. That, maximum sentence awarded by trial court is eight years for offence under section 304 Part II of IPC. That, there are mere allegations against present applicants that they gave kicks and fist blows. That, it was a sudden occurrence. That, applicant no.1 has already undergone seven months imprisonment and applicant no.2 has already undergone almost three years imprisonment. That, exception has been taken to the above judgment and order by filing appeal, however, appeal being of 2024, there are no chances of hearing being conducted immediately. That, applicant no.1 was on bail during trial. For all above reasons, relief of suspension of sentence and grant of bail are pressed into service.

3. Learned APP opposed on the ground that on full-fledge trial, conviction has been recorded. He apprehends misuse of liberty, if bail is granted.

4. Heard. Perused the papers. It seems that, vide judgment and order dated 27.06.2024 passed in Sessions Case No. 228 of 2021, both present applicants are held guilty for offence punishable under

sections 304 Part II and 323 read with section 34 of IPC and there is acquittal from charge under sections 302, 504 and 506 of IPC. Apparently maximum sentence is of eight years for commission of offence under section 304 Part II of IPC. Statement is made across the bar that evidence of alleged witnesses are about giving kicks and fist blows. Deceased died due to head injury due to fall. There is a good case on merits in appeal.

5. Prima facie taking the statement across the bar that allegations are of giving kicks and fist blows to deceased, occurrence taking place on a minor count in the heat of anger and there being no motive or ill intention and as appeal is of 2025, obviously it would take long time to be heard and decided, relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

I. Criminal Application stands allowed.

II. The substantive sentence imposed on the applicants, namely, (i) Arun @ Mukesh Shyam Sonawane (Panchal) and (ii) Vishal Sahebrao Sonawane (Panchal) in Sessions Case No. 228 of 2021 by learned Additional Sessions Judge, Dhule on 27.06.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.727 of 2024.

III. The applicants be released on P.R. Bond of Rs.15,000/- (Rupees

Fifteen Thousand Only) each with two solvent sureties 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.)