



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1528 OF 2025
IN
CRIMINAL APPEAL NO. 296 OF 2025

1. Chandrakant Eknath Shirole,
Age : 60 years, Occu. : Retired,
2. Manisha W/o. Chandrakant Shirole,
Age : 55 years, Occu. : Business,

All R/o. Mahanubhav Galli, Parola,
Tq. Parola, Dist. Jalgaon. ... Applicants

Versus

The State of Maharashtra,
Through Parola Police Station,
Taluka Parola, District Jalgaon. ... Respondent

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Mr. Nilesh S. Ghanekar, Advocate for Applicant.
Mr. V. M. Jaware, APP for Respondent – State.

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WITH
CRIMINAL APPLICATION NO. 1529 OF 2025
IN
CRIMINAL APPEAL NO. 297 OF 2025

Govind S/o. Eknath Shirole,
Age : 50 years, Occu. : Business,
R/o. Mahanubhav Galli, Parola,
Tq. Parola, Dist. Jalgaon. ... Applicant

Versus

The State of Maharashtra,
Through Parola Police Station,
Tq. Parola, Dist. Jalgaon. ... Respondent

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Mr. Chaitanya Deshpande, Advocate for Applicant.
Mr. V. M. Jaware, APP for Respondent – State.

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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 30 APRIL 2025
PRONOUNCED ON : 07 MAY 2025

ORDER :

1. Both above applications are for suspension of substantive sentence and grant of bail during pendency of appeal arising out of judgment and order dated 28.04.2025 passed by learned Additional Sessions Judge, Amalner in Sessions Case No. 38 of 2010.

2. Both above applications are arising out of common judgment and prayers being identical are heard and dealt together and same being answered by learned APP, are decided by way of common order.

3. Both learned counsel for applicants submit that, applicants, namely Chandrakant Eknath Shirole, Manisha W/o. Chandrakant Shirole and Govind Eknath Shirole were made accused nos.1, 2 and 4 in above sessions case. In all 09 persons were charge sheeted and tried vide Sessions Case No. 38 of 2010 for charge under sections 304(II), 337, 334, 212, 286, 287, 374, 304(A), read with section 34 of Indian Penal Code and under

section 9-B(1)(a)(b) of the Explosive Act, 1884. Both learned counsel pointed out that, there are allegations that there was accidental fire in a firework factory (cracker). That, some allegedly suffered burn injuries and some succumbed later on. Therefore, applicants were booked by complaint lodged by API on receipt of information about accident. That, they were tried, however, according to both of them, amongst 09 accused, only present applicants are held guilty for offence punishable under sections 304 Part II read with section 34 of IPC and under the provisions of Explosive Act. There was no distinct evidence or legally acceptable evidence to distinctively separate them from others and convict them. Exception has been taken to the same by filing appeals, which are apparently of 2025. There are no prospects of hearing the appeal in near future. Statement is made across the bar that applicants were on bail during trial and fine amount is already paid. Therefore, they urged for relief of suspension of sentence and grant of bail.

4. Learned APP strongly opposed on the ground that there is strong evidence about applicants, who are responsible for the episode of fire. That, business of manufacturing fireworks was conducted without licence. That, there are injured as well as death has occurred. That, all ingredients for attracting offences were

available and considering the quantum of sentence, learned APP opposes the relief of suspension and grant of bail.

5. Heard. Perused the papers. It appears that, prosecution was launched against present three applicants along with six others for commission of offence under sections 304(II), 337, 334, 212, 286, 287, 374, 304(A), read with section 34 of Indian Penal Code and under section 9-B(1)(a)(b) of the Explosive Act, 1884. Prosecution seems to have adduced evidence of in all 43 witnesses and has relied on medical certificates and p.m. report. Vide judgment and order dated 28.04.2025, out of nine, accused nos.1, 2 and 4 are held guilty and rest are acquitted on the ground that prosecution failed to establish the charges against them. Learned trial Judge has held that accused in furtherance of common intention were running cracker factory without permission and with knowledge that if fire is set, it would cause death and thereby held applicants guilty for culpable homicide not amounting to murder.

6. Learned counsel for applicants have taken this court through the witnesses including injured, who have not wholeheartedly supported prosecution and have rather denied injuries due to fire. It is pointed out that, learned trial Judge has

accepted prosecution version primarily on the medical evidence i.e. doctor's evidence and medical certificates. Therefore, there are contentious issues to be dealt in appeals, which are primarily of this year and the same would take long time to be heard. Applicants were said to be on bail during trial and fine amount is reported to be paid.

7. In the light of above, considering the nature of charges and on prima facie going through the observations made by learned trial Judge that out of 09, on same set up evidence, only 03 are held guilty, this court is inclined to grant relief as prayed. Hence, the following order is passed :-

ORDER

I. Criminal Application stands allowed.

II. The substantive sentence imposed on the applicants, namely, (i) Chandrakant Eknath Shirole, (ii) Manisha W/o. Chandrakant Shirole and (iii) Govind S/o. Eknath Shirole in Sessions Case No. 38 of 2010 by learned Additional Sessions Judge, Amalner on 28.04.2025 stand suspended till the final hearing and disposal of Criminal Appeal Nos.296 of 2025 and 297 of 2025.

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.)