

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**Criminal Interim Application No.5153 of 2024
In
Cri. Appeal No.1313 of 2024**

1. Maulabaksh Mehendihasan Mansuri
Age : 48 years, Occ: Estate Agent;
R/at : Al-Badar Apartment, 4th floor,
2nd Rabodi, Thane (W) – 400 0601.
(Presently lodged at Thane Jail)
 2. Rajji Ahmed Nabibaksh Mansuri
Age : 38 years; Occ : Service;
R/at : Kolsewadi Chawl, In front of
Jumma Masjid, 1st Rabodi,
Thane (W)-400 601.
(Presently lodged at Thane Jail)
- ... Applicants/
Org.Accused
No.1 & 2.

Vs.

The State of Maharashtra
(Through Rabodi Police Station)

... Respondent/
Org.complainant

Ms Roohita Shaikh i/by Adv. Anil Nile, Adv Javed Shaikh
and Adv Priyanka Nile for the appellants.

Ms MR Tidke, APP for respondent/State.

**Coram : R.N.Laddha, J.
Date : 9 January 2025.**

P.C. :

This is an application for suspension of sentence and grant of bail, pending the hearing and final disposal of the appeal.

2. The applicants/accused faced the trial in Sessions Case No.321 of 2016 for committing an offence punishable under Sections 307 and 506(II) read with 34 of the Indian Penal Code and were sentenced to suffer rigorous imprisonment for seven years and fine of Rs.1,000/- each for offence punishable u/s 307 r/w 34 of the IPC; rigorous imprisonment for a period of one year for offence punishable u/s 506-II r/w 34 of the IPC, with default stipulations.

3. The learned Counsel for the applicant submits that the applicants were on bail during the trial and were arrested on 14 November 2024 following the conviction order of the same date. Applicant No.1 is a heart patient who has undergone coronary angioplasty. The impugned judgment and order suffer from various infirmities and a lack of appreciation of evidence. There are inconsistencies in the evidence of the prosecution witnesses. According the Imran

Ansari (PW1), he took the injured Kamruddin Ansari (PW 3) to the hospital, whereas Kamruddin Ansari testified that he did not tell the police that Imran took him on the motorcycle. The injured Kamrudding was taken to the Civil Hospital, Thane, at 11:00 a.m. and remained there until midnight. The Chief Medical Officer was on duty around the clock. The Medical Officer who attended to the injured was the best witness to state the nature of the injuries. However, no efforts were made to enquire with the Medical Officer. According to the prosecution, Kamruddin was bleeding profusely, but the seized clothes and the weapon allegedly used in the incident did not match the blood group of either the applicants or the victim. The learned Counsel further submits that the applicant, during the pendency of the appeal, will not enter the jurisdiction of the concerned police station.

4. The learned APP representing the respondent/State opposes the prayer for bail, citing the gravity of the charges for which the applicants have been convicted. The learned APP argues that the evidence on record, particularly the statement of the injured party strongly supports the prosecution's case and does not warrant grant of bail.

5. This Court has considered the arguments advanced at Bar and perused the records.

6. In ***Bhagwan Rama Shinde Gosai Vs State of Gujarat***¹, the Hon'ble Supreme Court observed as follows:

“3. When a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence can be considered by the appellate court liberally unless there are exceptional circumstances. Of course, if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of a limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when a motion for expeditious hearing of the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow special concern in the matter of

1 (1999) 4 SCC 421.

suspending the sentence so as to make the appeal right, meaningful and effective. Of course, appellate courts can impose similar conditions when bail is granted.”

7. While this Court acknowledges the arguments presented by the learned APP regarding the gravity of the offence and the current post-conviction stage of the proceedings, it is essential to recognise that the applicants have been on bail throughout the trial. Furthermore, it is important to note that the appeal is not expected to be heard immediately.

8. In light of the above, I deem it appropriate to allow the interim application in the following terms.

(i) The sentence imposed on the applicants vide judgment and order dated 14 November 2024, by the learned Sessions Judge, Thane, in Sessions Case No.321 of 2016, is suspended during the pendency of the appeal.

(ii) The applicants shall be released on bail, on executing PR bonds of Rs.25,000/- each, on furnishing one or more sureties in the like amount.

9. The interim application stands disposed off accordingly.

[R. N. Laddha,J.]