

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

**Interim Application No. 5346 of 2024
In
Criminal Appeal No. 1348 of 2024**

1. Laxman Madhukar Naik
Age: 45 years, Occ: Agriculturist,
 2. Parshuram Madhukar Naik
Age: 38 years, Occ: Agriculturist,
Both R/o Gawadewadi, Akeri,
Tal. Kudal, Dist. Sindhudurg,
Presently lodged at Sawantwadi
District Prison, Sindhudurg.
- ... Applicants

versus

1. State of Maharashtra
Through Public Prosecutor,
High Court, Bombay.
 2. Rupesh Krishna Patil
Age: 36 years, Occ: Nil,
Residing at Akeri, Tal: Kudal,
Dist.: Sindhudurg.
- ... Respondents

Mr AS Khandeparkar, Senior Advocate, along with Mr Rushikesh Bhagat, Mr Rohit Mahadik, Mr Sudarshan Bhilare, Mr Saurabh Mittal and Ms Apoorva Khandeparkar, i/by Khandeparkar & Associates, for the applicants.

Mr Arfan Sait, APP, for respondent No.1/ State.

Ms Paavani Chadha, for respondent No.2. (Through Legal Aid)

Coram: R.N. Laddha, J.
Date: 25 February 2025.

P.C.:

The applicants faced trial in Sessions Case No.55 of 2019 before the Court of Sessions, Sindhudurg, Oras, for offences punishable under Sections 307, 323, 504 and 506 read with 34 of the Indian Penal Code ('IPC'). By a judgment and order dated 5 December 2024, the applicants were acquitted of the offence punishable under Section 323 of the IPC and convicted for the offences punishable under Sections 307, 504 and 506 read with 34 of the IPC. They were sentenced as follows: (i) rigorous imprisonment of five years and a fine of Rs.15,000/- for offences punishable under Sections 307 read with 34 of IPC, (ii) rigorous imprisonment of six months and a fine of Rs.5,000/- for offences punishable under Sections 504 read with 34 of IPC, and (iii) rigorous imprisonment of two years and a fine of Rs.10,000/- for offences punishable under Sections 506 read with 34 of IPC. These sentences were directed to run concurrently.

2. Aggrieved, the applicants filed an appeal before this Court and, by the present application, seek suspension of the sentence and release on bail.

3. Mr AS Khandeparkar, the learned Senior Counsel

appearing on behalf of the applicants, highlighting the alleged shortcomings in the prosecution case, submits that the evidence relied upon by the prosecution lacks credibility and fails to inspire confidence. The learned Senior Counsel further submits that the sentence imposed on the applicants is short. Since the applicants were on bail throughout the trial and did not violate any bail conditions, they should receive the same treatment during the pendency of the appeal. The applicants are ready to abide by all conditions this Court imposes if released on bail.

4. Mr Arfan Sait, the learned Additional Public Prosecutor representing respondent No.1/ State, and Ms Paavani Chadha, the learned Counsel appearing for respondent No.2, jointly oppose the applicants' request and submit that the offence is severe. The evidence on record supports the case of the prosecution and does not warrant the grant of bail.

5. This Court has considered the arguments advanced across the Bar and perused the record.

6. In ***Bhagwan Rama Shinde Gosai v. State of Gujarat***, (1999) 4 SCC 421, 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 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. In the present case, the applicants are required to undergo a maximum imprisonment of five years. During the pendency of the trial, the applicants were enlarged on bail. The appeal has been filed in 2024 and is unlikely to be heard in the near future due to the pendency of the older appeals. If, at this juncture, the relief is denied, the applicants are likely to complete the entire term of their sentence before the appeal is heard. In these circumstances, the present application is allowed in the following terms:

(i) The sentence imposed upon the

applicants by the judgment and order dated 5 December 2024 passed by the Sessions Court, Sindhudurg, Oras, in Sessions Case No.55 of 2019, stands suspended during the pendency of the appeal.

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

8. The application stands disposed of accordingly.

(R.N. Laddha, J.)