

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**CRIMINAL APPLICATION NO. 1793 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 59 OF 2015**

Mr. Shivdas Sambhajirao Musne **...Applicant**

Versus

The State of Maharashtra **...Respondent**

.....
Ms Poonam V. Bodke Patil, Advocate for the applicant
Shri. U. S. Mote, APP for respondent/State
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**CORAM : SMT. SADHANA S. JADHAV, J.
DATED : APRIL 13TH, 2015.**

PER COURT: -

. The applicant herein is convicted for offence punishable under Section 409 read with 34 of the Indian Penal Code, and is sentenced to suffer rigorous imprisonment for three years and fine of Rs. 5,000/-, in default simple imprisonment for six months in RCC No. 136 of 1997, by learned Judicial Magistrate First Class, Parli Vaijnath, Dist. Beed, by judgment and order dated 7th September, 2002. Being aggrieved by the said judgment and order, the applicant herein filed Criminal Appeal No. 34 of 2002 before the learned Sessions Judge, Ambajogai. It appears that, since the applicant had not reported before the Court on the scheduled date, the learned

appellate Court was constrained to issue Non-bailable Warrant. The non-bailable warrant was executed and the applicant was taken into custody on 24th November, 2014. By the judgment and order dated 30th March, 2015, the Additional Sessions Judge, Ambajogai, has been pleased to dismiss the appeal.

2. The applicant is in Jail since 24th November, 2014. The learned Counsel for the applicant submits that the applicant has been in jail prior to the date of judgment and order passed by the learned Additional Sessions Judge, Ambajogai. That, he has undergone a substantive sentence of almost six months. The learned Counsel further submits that both the Courts below have not appreciated the evidence in its proper perspective and the same has resulted into grave miscarriage of justice and, therefore, according to the learned Counsel, the applicant has a good case on merits. In view of this, the learned Counsel prays for suspension of substantive sentence. Since this Court has issued Rule in Revision Application No. 59 of 2015, the substantive sentence imposed upon the applicant is liable to be suspended.

ORDER

- (i) The application is allowed.

- (ii) The substantive sentence imposed upon the applicant is hereby suspended.
- (iii) The applicant be enlarged on bail on his furnishing P.R. bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iv) The applicant shall report to the Court of Judicial Magistrate First Class, Parli Vaijnath, Tq. Parli Vaijnath, Dist. Beed, once in six months on the date scheduled by learned JMFC.
- (v) Upon breach of the condition of appearing on any two consecutive dates, the prosecution would be at liberty to file an application seeking cancellation of bail.

The application is allowed in above terms and disposed of.

Hamdast allowed.

(SMT. SADHANA S. JADHAV, J.)