

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

Criminal Application No. 2148 of 2015
(In Criminal Revision Application No. 75 of 2015)

Nandkishor s/o. Anantrao Chinchondikar,

Age : 58 years,

Occupation : Service,

R/o. Chichondi, Taluka : Nilanga,

District : Latur.

.. Applicant

(Original accused)

versus

The State of Maharashtra.

.. Respondent.

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Mr. U.B. Bondar, Advocate, for the applicant.

*Mr. P.P. More, Additional Public Prosecutor, for the
respondent - State.*

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CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 24TH APRIL 2015

PER COURT :

1. Heard Adv. Mr. U.B. Bondar for the applicant, and learned APP Mr. P.P. More for the respondent - State.

2. The applicant herein is convicted for offence punishable under Section 409 of the Indian Penal Code and sentenced to suffer

rigorous imprisonment for three months and to pay fine of Rs. 1,00,000/-, in default of payment of fine, to suffer simple imprisonment for three months, in R.C.C. No. 506/1999, by the Chief Judicial Magistrate, Latur, vide judgment and order dated 2nd June 2009. Being aggrieved by the said judgment and order, the applicant herein has filed Crime Appeal No. 46/2009, before the Sessions Court at Latur. The learned Sessions Judge, Latur, vide judgment and order dated 16th April 2015, has been pleased to dismiss the appeal.

3. Against the said orders, the applicant has preferred Criminal Revision Application No. 75 of 2015 before this Court, wherein Rule has been issued today.

4. By the present Application, the applicant seeks his release on bail during the pendency of the Revision Application by suspending the substantive sentence.

5. The learned Counsel for the applicant, upon instructions, submits that the applicant has surrendered to his bail bonds on 16th April 2015 and is in custody. The learned Counsel further fairly submits that the amount of fine has not been deposited. However, the applicant would undertake to deposit the find amount within two weeks from the date of his release. The learned Counsel submits that both the Courts below have not appreciated the evidence adduced by the prosecution in its proper perspective and the same has resulted in grave miscarriage of justice. The learned Counsel submits that the matter requires consideration in Revision Application and, therefore, Rule has been issued in Revision Application.

It is further submitted that the applicant was on bail during pendency of the trial as well as during pendency of the appeal and, therefore, prays for extension of the same relief during pendency of the Revision Application wherein Rule has been issued today.

6. Upon considering both the judgments and submissions advanced across the Bar, this Court is inclined to suspend the substantive sentence.

7. In the result, the Application is allowed.

(A) The substantive sentence imposed upon the applicant is hereby suspended. The applicant be enlarged on bail. Same bail, fresh bonds, before the trial Court.

(B) The substantive sentence is suspended on the condition that the applicant would deposit the fine amount of Rs. 1,00,000/- [Rupees One Lac], within a period of two weeks from the date of his release on bail. Fine amount be deposited in the trial Court. Upon failure to deposit the said amount within the stipulated period, the prosecution is at liberty to file an application seeking the relief of cancellation of bail.

(C) The applicant shall report to the trial Court once in six months on the date as may be directed by that Court till the disposal of the Revision Application.

(D) In case of failure to attend the trial Court on any two consecutive

(4)

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dates, the prosecution shall be at liberty to move for cancellation of bail.

8. The Application stands disposed of in the aforesaid terms.

(SMT. SADHANA S. JADHAV)
JUDGE

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