

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

**CRIMINAL APPLICATION NO. 2193 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 79 OF 2015**

Sanjay s/o bansilal Parakh **...Applicant**

Versus

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

.....
Shri. D. S. Bharuka, Advocate for the applicant
Shri. S. M. Jadhav, APP for respondent/State
.....

**CORAM : SMT. SADHANA S. JADHAV, J.
DATED : APRIL 24TH, 2015.**

PER COURT: -

. This is an application seeking suspension of substantive sentence.

2. The applicant herein is convicted for offence punishable under Section 16(1-A) read with Section 2 (ia)(a) Section 7(v) of the Prevention of Food Adulteration Act, 1954 and rule 9 of Prevention of Food Adulteration Rules, 1955 and sentenced to suffer simple imprisonment for six months and fine of Rs. 3,000/-, in default simple imprisonment for three months in RCC No. 34 of 2001 by Judicial Magistrate First Class, Rahuri, Dist. Ahmednagar (in short "JMFC") vide judgment and order dated 5th May, 2008. Being aggrieved by the said

judgment and order, the applicant herein had filed Criminal Appeal No. 83 of 2008 before the Additional Sessions Judge, Ahmednagar. The learned Additional Sessions Judge, Ahmednagar, vide an order dated 10th April, 2015, has been pleased to dismiss the said appeal. The learned appellate Court had, instead of taking the accused into custody, directed the applicant to appear before the trial court within 15 days from the date of said judgment.

3. The learned Counsel for the applicant submits that today i.e. on 24th April, 2015, the applicant surrendered before the JMFC and is taken into custody by the JMFC. In view of this, learned Counsel for the applicant seeks suspension of sentence. The applicant has been convicted for offences under special statute i.e. Prevention of Food Adulteration Act, 1954 and Rules, 1955. The learned Counsel submits that the applicant was on bail during the pendency of the trial as well as during the pendency of the appeal. According to the learned Counsel for the applicant, both the Courts have not considered the evidence on record in its proper perspective and hence, the same has resulted into grave miscarriage of justice. It is submitted that in view of this, the evidence needs to be appreciated in revision also. Upon perusal of the impugned judgment and after hearing the submissions of the learned Counsel, this Court is inclined to suspend the substantive sentence. Hence, following order is passed.

ORDER

- (i) The Criminal Application is allowed.
- (ii) The substantive sentence imposed upon the

applicant is hereby suspended. Same Bail, same bonds.

- (iii) The applicant shall report to the Court of JMFC, Rahuri, Dist. Ahmednagar, once in six months during the pendency of the revision application, on the date scheduled by the learned Court.
- (iv) Upon failure to attend the Court on any two consecutive dates, the prosecution would be at liberty to file an application seeking cancellation of bail.

Application disposed of accordingly.

Parties to act upon authenticated copy.

(SMT. SADHANA S. JADHAV, J.)