

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

**CRIMINAL APPLICATION NO.2274/2015.**

**IN**

**CRIMINAL APPEAL NO. 387 OF 2015.**

**PWANKUMAR S/O BARAMDIN TIVARI.**

**VERSUS**

**THE STATE OF MAHARASHTRA.**

**Appearance      =>**

Mr. Paresh Patil, Advocate for the Applicant.

Mrs. Pratibha Bharad, Additional Public Prosecutor for the State of Maharashtra.

**CORAM      :      V.M. Deshpande, J.**

**DATE        :      30<sup>th</sup> April, 2015.**

**Per Court :-**

This is an application for suspension of substantive jail sentence and for grant of bail.

[2]        The Additional Sessions Judge, Nandurbar vide his Judgment and Order dated 15<sup>th</sup> April, 2015 passed in Sessions Case No.4/2009 convicted the Applicant for the offence punishable under Section 328 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for one year and to pay fine of Rs.2000/- and in default of payment of fine amount, to suffer further rigorous imprisonment for three months.

The Applicant is also convicted for offence punishable under Section 379 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for six months and to pay fine of Rs.1000/- and in default of payment of fine amount, to suffer further rigorous imprisonment for one months.

[3] Heard Mr. Paresh Patil, learned counsel for the Applicant and Mrs. Pratibha Bharad, learned Additional Public Prosecutor for the State of Maharashtra.

[4] The Applicant has made a statement on oath that, after passing of Judgment and Order dated 15<sup>th</sup> April, 2015, he has deposited entire fine amount and the leaned trial court has exercised powers under Section 389 of the Code of Criminal Procedure and till preferring of Criminal Appeal, substantive jail sentence is suspended. Statement is accepted.

[5] The Applicant was on bail throughout and at no point of time, he has misused the liberty granted to him.

[6] Looking to fact that sentence imposed is for limited duration and since the Applicant was on bail, present Application can be considered favourably.

[7] Mr. Paresh Patil, learned counsel for the Applicant submitted that, the Applicant who was released on bail by the court below during trial and after conviction he was released on execution of PR Bond; since the accused was unable to fetch the surety.

[8] Hence, Applicant can be released on bail, during pendency of present Criminal Appeal directing him to furnish PR bond as well after furnishing the cash security. Hence, I pass the following order :-

**ORDER**

(i) Criminal Application is allowed.

(ii) Substantive Jail sentence passed by the learned Additional Sessions Judge, Nandurbar vide his Judgment and Order dated 15<sup>th</sup> April, 2015 passed in Sessions Case No.4/2009 convicting the Applicant for offences punishable under Section/s 328 and 379 of the Indian Penal Code shall remain suspended, during pendency of present Criminal Appeal.

(iii) Applicant shall be released on bail on condition that he executing P.R. Bond of Rs. 25,000/- [Rs. Twenty five Thousand.] and he shall deposit cash amount of Rs.10,000/- (Rs.Ten Thousand) before the Trial Court, within 15 days from today.

(iv) Bail before trial court.

(v) Applicant shall remain present before this court, at the time of final hearing of Criminal Application.

(vi) With this Criminal Application is allowed and same is disposed of accordingly.

**(V.M. DESHPANDE, J.)**