

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

CRI. WRIT PETITION NO. 3378 OF 2015

Sunil Vitthal Tadsare

... Petitioner.

V/s.

The State of Maharashtra & Anr.

... Respondents.

Miss. Parijata Bhardwaj i/by Dr. Yug Mohit Choudhary,
Advocate for the Petitioner.

Miss Anamika Malhotra, APP for the State.

CORAM : A.V. NIRGUDE, J.

DATE : 04th DECEMBER, 2015.

P.C. :

1 This writ petition challenges the order dated 4th December, 2013 passed by the additional Sessions Judge, Sangli, rejecting the petitioner's application moved for relief under section 427 of Cr. P.C.. The petitioner suffered conviction in three cases of theft. On 31st December, 2009, he was convicted for the first time in RCC No. 75 of 2009 and was sentenced to suffer rigorous imprisonment for 3 years and to pay fine etc.. On 11th January, 2010 while he was still in jail, he was convicted for similar offences and was sentenced to suffer R.I. for three years with fine etc.. His appeal was dismissed on 15th October, 2011. The third case against the petitioner ended in conviction on 8th June, 2010. This time also the petitioner was sentenced to suffer R. I. for 3 years

with fine etc.. The appeal was also dismissed on 25th October, 2011. After the appeal was dismissed, the petitioner moved an application under section 427 of the Cr.P.C. to the learned Sessions Judge, seeking a prayer that subsequent sentence, if any, i.e. the last one may be ordered to run concurrently with the previous one. The learned Sessions Judge, however, refused to use his discretion and rejected the application.

2 The question before me is whether the facts of this case would permit me to use my discretion in favour of the petitioner. The petitioner is in jail since his first conviction in 2009. He has already undergone 3 years of imprisonment. The third sentence of 3 years of imprisonment is now in progress. The petitioner of course appears to be a habitual offender. The offences did not appear to be of serious nature. It seems that he was committing theft of household articles and in my view, the petitioner deserves relief under section 427 of the Cr.P.C.. Sentence awarded to the petitioner in the last case would run concurrently with the previous sentences.

3 Since the previous sentences are already undergone by the Petitioner, he petitioner should be released from jail.

4 This petitions stands disposed of in the above terms.

(A.V. NIRGUDE, J.)