

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1397 OF 2015
IN
CRIMINAL APPEAL NO. 1078 OF 2015

1. Suryakant Rajaram Shinde Patil (Sangade))
2. Rajaram Dattu Shinde Patil (Sangade))
3. Mangal Rajaram Shinde Patil (Sangade)).. Applicants
vs. (Orig. Accused Nos.1,2
& 3)
The State of Maharashtra ... Respondent

Mr. Kuldeep S. Patil for the applicants.
Mrs. A.A.Mane, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 22nd December, 2015.

P.C.

This is an application under Section 389 of Cr.P.C. 1973 seeking suspension of substantive sentence imposed upon the applicants vide judgment and order dated 30.10.2015 by Special Judge and Addl. Sessions Judge, Sangli in Sessions Case No.166 of 2011.

2. The applicants herein were facing the charge for the offences punishable under Section 304B read with Section 34 of IPC and Section 498A read with Section 34 of IPC. Upon appreciation of the evidence adduced by the prosecution, the learned Sessions Judge has convicted the

applicants for the offence punishable under Section 306 read with Section 34 of IPC and sentenced them to suffer R.I. For four years and fine of Rs.2,000/- each in default to suffer simple imprisonment for one month, the applicants are also convicted for the offence punishable under Section 498A read with Section 34 of IPC and sentenced to suffer R.I. for one year and to pay fine of Rs.1,000/- each in default to suffer S.I. For one month.

3. The applicants were on bail during the pendency of the trial. They have been taken into custody on 30.10.2015. The learned Sessions Judge has framed an issue as to whether the prosecution has proved that the applicants herein have committed offences punishable under Section 304B read with Section 34 of IPC. The answer is in the negative. The applicants are sentenced to a short-term sentence of four years. This Court is hearing the appeals of 1992, 1993, 1994 etc. It would not be possible for this Court to take up the appeal for final hearing in the near future.

4. In the case of **Kiran Kumar vs. State of M.P. (2001) 9 SCC 211**, the Hon'ble Apex Court has held as follows :-

“This Court has held in Bhagwan Rama Shinde Gosai v. State of Gujarat that when a person is convicted and sentenced to a short-term imprisonment the normal rule is that when his appeal is pending the sentence should be suspended and rejection is only by way of exception and be put forward for

such rejection. In such case also every endeavour should be made to have the appeal posted for early hearing and disposal. If the short-term sentence is allowed to run out during the pendency of the appeal, the appeal itself will become, for all practical purposes, infructuous so far as the appellant is concerned.”

In view of this, this Court is of the opinion that the substantive sentence imposed upon the applicants deserves to be suspended.

ORDER

- (i) The application under Section 389 of Cr.P.C. is allowed.
- (ii) The substantive sentence imposed upon the applicants is hereby suspended. They be enlarged on bail. Same bail, fresh bonds.
- (iii) The applicants shall deposit the fine amount, if not paid.
- (iv) The applicants shall report to the Court of Special Judge and Addl. Sessions Court, Sangli, once in six months on the date specified by the Sessions Court.
- (v) Upon failure to report on any two consecutive dates, the prosecution will be at liberty to seek cancellation of bail.
- (vi) At the time of furnishing the bail bonds, the applicants shall

furnish their permanent address, cellphone numbers and other details.

(vii) The applicants shall furnish the permanent address and cellphone numbers of the sureties.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)