

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1624 OF 2013

IN

CRIMINAL APPEAL NO.981 of 2013

Ganesh Tukaram More and Anr .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr.Kuldeep S. Patil, Advocate for the applicants.

Mrs.S.V.Gajare, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 21st APRIL, 2015

P.C. :

1 The Appeal filed by the applicant, challenging their conviction and sentences imposed upon them, has already been admitted.

2 By the present application, the applicants are praying that the sentences imposed upon them, be suspended during the pendency of the Appeal, and that they be released on bail.

3 The applicant no.1 is the original Accused no.3, and the applicant no.2 is the original accused no.5. The applicant no.2 was on bail during the trial.

4 I have heard Mr.Kuldeep S.Patil, learned counsel for the applicants and Mrs.S.V.Gajare, learned APP for the State. With their assistance, I have gone through the evidence of the material witnesses recorded during the trial.

5 A number of other accused in the same case who have also been convicted have filed separate Appeals which are pending before this Court. Some of the accused have been released on bail during the pendency of their Appeals. Original accused nos.2,4, 6,and 8 who have filed Criminal Appeal No.990/13 have been released on bail during the pendency of the said Appeal (Criminal Application No.1623/13 decided on 14th July 2014 (Coram Mrs.Mridula Bhatkar,J). A copy of the order passed by this Court suspending the sentences imposed upon them, and releasing them on bail during the pendency of the Appeal, has been shown to me.

6 After carefully considering the nature of the prosecution case, the evidence adduced and the findings arrived at by the learned trial Judge, I am of the opinion that the case of the applicant no.2 i.e. the original accused no.5 Vishal cannot be treated very differently from that of the other accused the sentences imposed upon whom, have been suspended during the pendency of the trial. However, so far as the applicant no.1 Ganesh is concerned, I find that there was some further and additional evidence available against him, which was not the case with respect to the other accused.

7 Considering all the relevant aspects of the matter, I am not inclined to suspend the sentence imposed upon the applicant no.1 at this stage.

8 In the result, the Application is partly allowed.

9 The prayer for suspension of sentence, so far as it relates to the applicant no.1 Ganesh More, is rejected.

10 Pending the hearing and final disposal of the Appeal, the substantive sentence imposed upon the applicant no.2 Vishal shall stand suspended; and the applicant No.2 Vishal shall be released on bail in the sum of Rs.30,000/- with one surety in like amount on the condition that the applicant shall report to the trial court on the first Monday of each calendar month, till the disposal of the Appeal. Should the trial court be closed on any given Monday, the applicant no.2 should report to the trial court on the next working day.

11 Any default on the part of the applicant in reporting to the trial court as directed above, shall forthwith be brought to the notice of this Court, by the trial court.

12 Liberty to the applicant no.1 Ganesh to apply for suspension of sentence afresh, in the event of the Appeal not being taken up for final hearing within a period of nine months from today.

(ABHAY M.THIPSAY, J)