

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.458 OF 2015

Manohar Swaminath Pille .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Sujit Pathak, Advocate for the applicant.

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

CORAM : ABHAY M. THIPSAY, J.

DATED : 17th APRIL, 2015

P.C. :

1 The Appeal filed by the applicant challenging his conviction and the sentence imposed upon him, has already been admitted. By this Application, the applicant prays that pending the hearing and final disposal of the Appeal, the substantive sentence imposed upon him, be suspended and that, he be released on bail.

2 The applicant was prosecuted on the allegation of having committed an offence punishable under section 307 of the IPC. After holding a trial, the learned Addl. Sessions Judge, Palghar held him guilty only of an offence punishable under section 326 of the IPC. The applicant was sentenced to suffer RI for a period of three years, and to pay a fine of Rs.5,000/-.

3 The applicant was on bail during the trial. He was on bail when he was convicted and sentenced. He was released on bail after the conviction under the provisions of section 389 of the Code of Criminal Procedure by the trial court. However, when his Appeal was admitted, and when he sought suspension of the sentence imposed upon him, this Court opined that there was a case for enhancement of sentence, and that, it would be for the State to see whether there could be an Appeal for enhancement of the sentence. Taking this view, the Court held that, at that stage, the application for suspension of substantive sentence was not to be granted. The learned APP was directed to apprise the Court by the next date as to whether steps were being taken for enhancement of the sentence. Thereafter, the matter remained pending, and even today, it does not appear that any Appeal for enhancement of the sentence has been filed by the State. The learned APP wanted further time to seek the necessary instructions, but considering the time gap, such a prayer has been rejected. There is nothing to show that any steps for enhancement of the sentence have been taken by the State.

4 I have considered the matter.

5 Though this Court expressed a view that there was a case for enhancement of sentence, the Court refrained from itself issuing a notice for enhancement.

6 I have gone through the judgment of the trial court. Though it appears to be true that the applicant was on bail during

the trial, and that he was released on bail even after conviction, considering the nature of evidence that was adduced against him during his trial, as is reflected from the impugned judgment, I do not think it fit to suspend the substantive sentence imposed upon him. Considering that the sentence is a short one, however, the Appeal needs to be expeditiously heard.

7 The Application for suspension of sentence is rejected.

8 However, the hearing of the Appeal is ordered to be expedited.

9 Liberty to the applicant to supply a private paper book.

10 Liberty to the appellant to apply for getting a date for final hearing of the Appeal fixed, after receipt of Record and Proceedings.

11 Liberty to the appellant to seek suspension of sentence afresh, if, for some reasons the Appeal is not finally heard and disposed of by the end of July 2015.

12 Application is disposed of accordingly.

(ABHAY M.THIPSAY, J)