

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CRIMINAL APPLICATION NO.505 OF 2015
IN
CRIMINAL APPEAL NO.250 OF 2014**

Mr.Samfun Javed Shaikh & Anr. ... **Applicants**
V/s.
The State of Maharashtra ... **Respondent**

.....
Ms.Zainab Bee Khan, Advocate for the Applicant.
Mrs.S.V.Gajare, APP for the Respondent/State.
....

CORAM : ABHAY M. THIPSAY J.

DATED : 29TH APRIL 2015

P.C.

1. Heard Ms.Z.B.Khan the learned counsel for the applicants. Heard Mrs.S.V.Gajre the learned Additional Public Prosecutor for the respondent/State.

2. The learned counsel for the applicants submits that the previous application for suspension of sentences, filed by the applicants, was withdrawn, in view of the fact that this Court had granted liberty to the applicants to apply for bail after a period of nine months from the date of the said order i.e. 14/07/2014 (Criminal Application No.435 of 2014 Coram : Mrs.Mridula Bhatkar, J.)

3. It is pursuant to the liberty granted by the said order that the present application has been filed.

4. I have glanced through the impugned judgment. I have also glanced through the evidence of the prosecution witnesses recorded during the trial.

5. The applicants were released on bail during the trial. It is nobody's case that they misused the liberty granted to them. In fact, the applicants continued to remain present before Court, during the trial, though two other accused in the same case had absconded.

6. It is contended that the evidence adduced by the prosecution during the trial suffers from weaknesses and could not have been relied upon. It is contended that the applicants have a good chance of succeeding in the appeal.

7. I have considered the matter. The sentence imposed upon the applicants is of Rigorous Imprisonment for 5 years. Arguable points needing consideration have been raised. In the ordinary course, the appeal is not likely to be taken up for final hearing within a short time. The applicants are already in custody for a period of more than one year and two months after their conviction.

8. In the circumstances, I am inclined to suspend the sentences imposed upon the applicants, subject to certain conditions.

9. The application is allowed.

10. Pending the hearing and final disposal of the appeal, the substantive sentences imposed upon the applicants/appellants shall stand suspended; and the applicants/appellants shall be released on bail in the sum of Rs.30,000/-, with one surety in the like amount, or two sureties in the sum of Rs.15,000/- each, on the condition that the applicants shall report to the office of Anti Terrorism Squad, Vikroli on every alternate Monday, till the disposal of the appeal filed by them.

Any default on the part of the applicants in reporting to the office of the ATS as aforesaid, shall forthwith brought to the notice of this Court, by the concerned officer from the ATS.

11. The application is allowed in the aforesaid terms.

(ABHAY M. THIPSAY J.)