

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.951 OF 2015**

**IN**

**CRIMINAL APPEAL NO.222 OF 2014**

**MOHD.RAFIQUE RASHID SAYYED @ LAL )  
TOPI RAFIQUE )...APPLICANT**

**V/s.**

**THE STATE OF MAHARASHTRA )...RESPONDENT**

Mr.Suryakant J. Shelke, Advocate for the Applicant.

Mrs.S.Gajare-Dhumal, APP for the Respondent - State.

**CORAM : ABHAY M. THIPSAY, J.**

**DATE : 2<sup>nd</sup> SEPTEMBER 2015.**

**P.C. :**

1 Heard Mr.Suryakant Shelke, the learned counsel for the applicant. The prayer for suspension of sentence is pressed basically on the ground that the applicant / appellant, who has been sentenced to suffer Rigorous Imprisonment for 7 years, has

already undergone more than half of the sentence that has been imposed upon him. Mr.Shelke, the learned counsel for the applicant, places reliance on a decision rendered by a learned Single Judge of this court in Criminal Application No.788 of 2007 in Criminal Appeal No.639 of 2007, decided on 7<sup>th</sup> August 2007, wherein, after considering the pronouncement of the Supreme court, it was expressed that where an accused has undergone more than half of the sentence imposed upon him, and where the appeal is not likely to be listed for final hearing within a short time, the sentence imposed upon such accused should be suspended during the pendency of the appeal.

2           In this case, I find that as per the case of the prosecution, the applicant / appellant was apprehended on the spot. Record and proceedings have been received with paper book and the appeal is ready for final hearing. In my opinion, it would be proper to direct the appeal itself to be listed for final hearing at an early date, rather than suspending the sentence.

3           As such, the application is rejected.

              However, the appeal is directed to be listed for 'Final Hearing' peremptorily on 14<sup>th</sup> September 2015.

**(ABHAY M. THIPSAY, J.)**