

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1098 of 2014

IN

CRIMINAL APPEAL NO.778 of 2013

Javed Abdul Gafoor Mozawala .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Taraq Sayyed with Ms.Sartaj Shaikh, Advocate for the applicant.

Mrs.M.R.Tidke, APP for the Respondent State.

CORAM : ABHAY M. THIPSAY, J.

DATED : 13th FEBRUARY, 2015

P.C. :-

1 The Appeal filed by the present applicant challenging his conviction and the sentence imposed upon him has already been admitted. His application for suspension of the sentence and his release on bail, however came to be rejected. (Criminal Application No.1110/13 decided on 21st January 2014) (Coram : Smt.Mridula Bhatkar, J). However, by the same order, the applicant was granted liberty to move this Court for bail, after one year.

2 Now, the present application has been made pursuant to the liberty granted by the said order, and as the Appeal has not been listed for final hearing as yet.

3 This application appeared on board on 9th February 2015 when an adjournment was sought by the prosecution by

submitting that the APP who appears in the matter (Mrs.Pai), was unable to remain present before the Court on that date. That is how the application was adjourned till today.

4 Today in the morning session also, the application was called out repeatedly, but on none of these occasions, Mrs. Pai was present. Mrs.M.R.Tidke, learned APP prayed for keeping the application back. Accordingly, the application was kept back, and is now taken up after 3.00 p.m, but even now, Mrs.Pai who is supposed to appear in the matter on behalf of the State, is absent. Under these circumstances, the Application is being decided after going through the same, and after hearing the learned counsel for the applicant.

5 It is submitted that the applicant has remained in custody for a period of more than four years. It is submitted that the applicant was apprehended on 8th December 2010, and has remained in custody thereafter till 8th January 2015 when he was released on parole. The applicant is present before me in Court in person.

6 Indeed, it appears that the applicant has actually suffered imprisonment for a period of more than four years. The substantive sentence imposed upon him is of seven years.

7 The Appeal is not likely to be taken up for final hearing within a short time.

8 Since the case of the applicant has been considered for grant of parole, it is quite unlikely that the applicant would abscond, if released on bail.

9 Under the circumstances, I am inclined to allow the application.

10 Application is allowed.

11 Pending the hearing and final disposal of the Appeal, the substantive sentence imposed upon the applicant/appellant shall stand suspended, and the appellant shall be released on bail in the sum of Rs.50,000/- with one surety in like amount, or two sureties in the sum of Rs.25,000/- each on the condition that the applicant shall report to the trial court on the first and third Monday of every calendar month, till the disposal of the Appeal against him.

12 Should the trial court be closed on any given Monday, on account of a holiday, the applicant shall report to the trial court on the next working day.

13 Any default by the applicant/appellant in reporting to the trial court, as aforesaid, shall forthwith be brought to the notice of this Court by the trial Court.

(ABHAY M.THIPSAY, J)