

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 390 OF 2015
IN
CRIMINAL REVISION APPLICATION NO. 442 OF 2015

1	Mr. Shankar Mukund Deshmukh	
2	Mr. Vilas Shankar Deshmukh	
3	Mr. Govind Tatyaba Deshmukh	
4	Mr. Waman Parshuram Deshmukh	
5	Mr. Arun Sitaram Salavi.	... Applicants
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. Pratap Patil, advocate for Applicants.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 27, 2015

P.C.:

- 1 Not on board. Upon production taken on board.

- 2 Heard the learned Counsel for the applicants and the learned
APP for State.

3 This is an application seeking suspension of substantive sentence imposed upon the applicants. The applicants herein were acquitted by the Judicial Magistrate First Class, Pali vide Judgment and Order dated 4/7/2008 in R.C.C. No. 20 of 2005 of the offence punishable under Section 416, 420, 465, 466, 468, 474, 506 read with Section 34 of the Indian Penal Code.

4 The said Judgment and Order of acquittal was challenged by the State of Maharashtra by filing Criminal Appeal No. 62 of 2008. The learned Additional Sessions Judge, Mangaon, District Raigad vide Judgment and Order dated 21st August, 2015 was pleased to allow the appeal and has convicted the accused for offence punishable under Section 416, 420, 465, 466, 468, 474 read with Section 34 of the Indian Penal Code. The applicants are sentenced to suffer R.I. for one year and fine of Rs. 1,000/-. The appeal filed by the State against the original accused Nos. 1 and 2 was dismissed. The applicants had not surrendered.

5 The learned Counsel for the applicants submits that the applicants were on bail during the pendency of the trial and have not committed breach of any condition imposed upon them. The learned Counsel submits that in fact, the Judicial Magistrate First Class had appreciated the evidence on record in its proper perspective and had acquitted all the accused. It is also submitted that the Appellate Court has been oblivious of the fact that when two views are possible, the one favouring to the accused should be taken into consideration.

6 The applicants have surrendered before the Court of Sessions on 26/10/2015. The learned Additional Sessions Judge has taken them into custody.

7 Taking into consideration the fact of the case and submissions advanced across the bar, this Court is of the opinion that the substantive sentence imposed upon the applicants by the Sessions Court vide Judgment and Order dated 21/8/2015 deserves to be suspended during the pendency of the revision application. The

sentence imposed upon him is a short term sentence and this Court would not be able to take up the matter for final hearing and therefore, the applicant deserves grant of bail.

8 Hence, following order is passed:

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicants vide Judgment and Order dated 21/8/2015 by the Additional Sessions Judge, Mangaon, District Raigad in Criminal Appeal No. 62 of 2008 is hereby suspended.
- (iii) The applicants be enlarged on bail. Same bails, fresh bonds.
- (iv) The applicants shall attend the Court of the Additional Sessions Judge, Mangaon, District Raigad, once in six months on the date scheduled by that Court.

(v) In case of failure to attend the said Court on any two consecutive dates, the prosecution shall be at liberty to move for cancellation of bail.

(vi) Parties to act on an authenticated copy of this order.

9 Application stands disposed of.

(SMT. SADHANA S. JADHAV,J)