

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 295 OF 2014
IN
CRIMINAL REVISION APPLICATION NO. 350 OF 2014

Bhalchandra Chindu Dabhane. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Kuldeep S. Patil, advocate for Applicant.

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

CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 19, 2015

P.C.:

- 1 Not on board. Upon production taken on board.
- 2 Heard the learned Counsel for the applicant and the learned APP for State.
- 3 The applicant herein is convicted for offence punishable under Section 409 of the Indian Penal Code and is sentenced to suffer

simple imprisonment for 6 months and fine of Rs. 500/- by the Chief Judicial Magistrate, Raigad in RCC No. 144 of 2001 by Judgment and Order dated 23/1/2009. Being aggrieved by the said Judgment and Order, the applicant herein had filed Criminal Appeal No. 10 of 2009 before the Sessions Court, Raigad at Alibag. The learned Sessions Judge vide Judgment and Order dated 24/9/2014 has been pleased to dismiss the appeal. Hence, this Revision Application.

4 Although the revision application was filed in the year 2014, the applicant had not surrendered to his bail bonds. When the matter came up before this Court, the applicant was directed to renew his prayer only after he surrenders. The learned Counsel for the applicant has placed on record an application filed by the accused before the Chief Judicial Magistrate, Raigad at Alibag today i.e. on 19/10/2015 requesting the Magistrate to take him into custody pursuant to the cancellation of the bail bonds by the Appellate Court. The prosecution had requested the Court to take the applicant into

Magistrate Custody. However, it appears that learned Magistrate has called for the record from the Court of Chief Judicial Magistrate.

5 The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial as well as during the pendency of the appeal and has not committed breach of any condition imposed upon him and hence, he is entitled to same relief during the pendency of the revision application. The learned Counsel further submits that in the present case, the prosecution has not proved the guilt of the accused beyond the reasonable doubt and hence, he has good case on merits. Hence, the applicant prays for suspension of sentence.

6 Taking into consideration the submissions advanced across the bar, this Court is of the opinion that 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.

7 Hence, following order is passed:

ORDER

(i) The application is allowed.

(ii) The substantive sentence imposed upon the applicant by the Chief Judicial Magistrate, Raigad at Alibag vide Judgment and Order dated 23/1/2009 in RCC No. 144 of 2001, confirmed by the Sessions Court at Raigad at Alibag vide Judgment and Order dated 24/9/2014 in Criminal Appeal No. 10 of 2009 is hereby suspended.

(iii) The applicant be enlarged on bail. Same bail, fresh bond.

(iv) The applicant shall attend the Court of the Chief Judicial Magistrate, Raigad at Alibag 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.

8 Application stands disposed of.

(SMT. SADHANA S. JADHAV,J)