

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL REVISION APPLICATION NO. 482 OF 2015
WITH
APPLICATION NO. 422 OF 2015
(for bail)
IN
CRIMINAL REVISION APPLICATION NO. 482 OF 2015**

Saddam Hussain Shaukat Ali Shaikh ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Aniket Vagal for the Applicant.
Mr. S.H. Yadav, A.P.P. for the State.

CORAM : A.V. NIRGUDE, J.

DATE : 17th DECEMBER, 2015.

P.C. :

1. This revision application, which is not on board, is taken up for hearing on request.

2. The applicant along with co-accused Ranjan @ Munna Kanchan Adhikari stood convicted for offences punishable under Section 395 r/w Section 397 of the IPC and other less serious offences in Sessions Case No.13 of 2011. Both of them were sentenced to suffer RI for ten years. The peculiarity of this case is that the trial was conducted before an

Ad hoc Assistant Sessions Judge and not before an Additional Sessions Judge. It seems that because the trial was conducted before the Ad hoc Assistant Sessions Judge, the applicant preferred an appeal before the learned Additional Sessions Judge, Greater Mumbai. The learned Additional Sessions Judge dismissed the appeal only on the ground that the appeal did not lie before him. He discussed the provisions of Section 374 of the Cr.P.C., and rightly held that the appeal should lie before the High Court. When the learned Judge came rightly to the conclusion that the appeal could not be filed before him, he had no reason to dismiss the appeal. He ought to have given liberty to the applicant for withdrawal of the appeal, which he had filed before him, so as to enable him to approach this Court. The learned Additional Sessions Judge simply dismissed the appeal. This caused grave injustice to the applicant. The applicant's valuable right of filing an appeal was lost. The learned Additional Sessions Judge ought to have realised that he could not have trampled such valuable right of the applicant. The revision application is, therefore, allowed. The

impugned order is set aside and is replaced by the following order:

ORDER

(i) Criminal Appeal No.595 of 2014, preferred by the applicant before the Sessions Court in Sessions Case No.13 of 2011 in C.C. No.4701159/PW/2010, is permitted to be withdrawn with liberty to file it before the High Court, with necessary amendments, etc..

(ii) Liberty is given to the applicant to file the appeal within thirty days from today.

3. The revision application accordingly stands disposed of.

4. In view of disposal of the revision application, Criminal Application No.422 of 2015 in Revision Application No.482 of 2015 does not survive and it accordingly stands disposed of. Needless to say, it is open to the applicant to file fresh application for bail along with his appeal.

(A.V. NIRGUDE, J.)