

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 437 OF 2015  
IN  
CRIMINAL REVISION APPLICATION NO. 495 OF 2015

Vilas Gunda Shirolkar. ... Applicant.  
Versus  
The State of Maharashtra. ... Respondent.

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Mr. R.K. Mendadkar a/w. Mr. C.K. Bhangoji a/w. Ms. Helen Mandlik,  
advocate for Applicant.

Mr. Arfan Sait, APP for State.

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**CORAM : SMT. SADHANA S. JADHAV,J**  
**DATE : OCTOBER 28, 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 This is an application seeking suspension of substantive sentence imposed upon the applicant. The Applicant herein is convicted by the learned Judicial Magistrate First Class, Khadki, Pune vide Judgment and Order dated 2/9/2014 in R.C.C. No. 179 of 2008 for offence punishable under Section 420 of the IPC and is sentenced to suffer R.I. for one year and fine of Rs. 1000/- I.d. to suffer R.I. for 15 days. The applicant is also convicted for offence punishable under Section 467 of the IPC and is sentenced to suffer R.I. for 3 years and fine of Rs. 1000/- I.d. to suffer R.I. for 15 days. The applicant is further convicted for offence punishable under Section 468, 471 of the IPC and is sentenced to suffer R.I. for one year on each count and fine of Rs. 1000/- on each count. The applicant is also convicted for offence punishable under Section 11 of Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes, (Vimukta Jaties), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 and is sentenced to suffer R.I. for 6 months and fine of Rs. 2000/- I.d. to suffer R.I. for 15 days.

4     Being aggrieved by the said Judgment and Order, the applicant herein had filed Criminal Appeal No. 493 of 2014 before the learned Additional Sessions Court at Pune. The learned Sessions Court vide Judgment and Order dated 28/9/2015 has been pleased to dismiss the appeal and has confirmed the Judgment and Order passed by the Judicial Magistrate First Class, Khadki, Pune in R.C.C. No. 179 of 2008. The applicant was directed to surrender to bail bonds before the Judicial Magistrate First Class, Khadki, Pune.

5     learned Counsel for the applicant submits that today i.e. on 28/10/2015 the applicant has surrendered himself to the custody of Judicial Magistrate First Class, Khadki, Pune. Hence, the applicant is seeking suspension of substantive sentence imposed by the Judgment and Order dated 2/9/2014 by the learned Judicial Magistrate First Class, Khadki and confirmed vide Judgment and Order dated 28/9/2015 by the learned Additional Sessions Judge, Pune at Pune.

6     The learned Counsel for the applicant submits that the applicant happens to be a public servant. It is submitted that in fact, the prosecution itself was not maintainable as the complaint was not filed by the Caste Scrutiny Committee as contemplated under Section 11 of the said Act. The learned Counsel further 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. The learned Counsel also submits that the applicant has good case on merits. That the revision application has been admitted and therefore, prayer for grant of bail has been pressed.

7     Taking into consideration the facts of the case and the submissions advanced across the bar, this Court is of the opinion that the substantive sentence imposed upon the applicant vide Judgment and Order dated 2/9/2014 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 applicant vide Judgment and Order dated 2/9/2014 by the learned Judicial Magistrate First Class, Khadki, Pune in RCC No. 179/2008, confirmed in Criminal Appeal No. 493 of 2014 by the learned Additional Sessions Court, Pune vide Judgment and Order dated 28/9/2015 is hereby suspended.
- (iii) The applicant be enlarged on bail. Same bail, fresh bond.
- (iv) The applicant shall attend the Court of the Judicial Magistrate First Class, Khadki, Pune, 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)**