

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1462 OF 2015
IN
CRIMINAL APPEAL NO.1101 OF 2015

Dnyaneshwar @ Pintu Vasant Jadhav		Applicant
<i>Versus</i>		
The State of Maharashtra (Through Manmad City Police Station, Manmad, Dist. Nashik)		Respondent

Mr. Indrajeet Joshi for the Applicant.

Mr. H.J. Dedia, A.P.P., for the Respondent-State.

CORAM : SMT. V.K. TAHILRAMANI, ACTING C.J. &
DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 23RD DECEMBER 2015.

P.C. :

1. This Criminal Application is preferred by Original Accused No.2 seeking suspension of his substantive sentence of imprisonment and his enlargement on bail during pendency of the Appeal.

2. The Applicant herein is convicted for the offences under Sections 302 and 201 r/w. 34 of IPC. The maximum punishment imposed on him is of R.I. for life and payment of fine.

3. As per prosecution case, on 10th April 2011, PW-1 Police Constable Digambar Patil, while on patrolling duty, intercepted the Maruti Van, in which there were three unknown persons. On examination of Van, the blood stains were noticed on the right side. Accused No.1 Vijay @ Viju lppar alone remained in the Van, whereas, the present Applicant and juvenile-in-conflict-with-law ran away from the Van. Prosecution is also relying on the evidence of PW-5 Deepak Wagh and PW-7 Dattu Pawar to prove that the Deceased was last seen in the company of the present Applicant and other co-accused.

4. We find substance in the submissions advanced by learned counsel for the Applicant that, in the absence of evidence relating to Test Identification Parade and the fact that recovery of the dead body was at the instance of Accused No.1 Vijay and recovery of weapon was at the instance of juvenile-in-conflict-with-law, the request of the Applicant to suspend his substantive sentence of imprisonment deserves to be allowed. Hence, the order.

“O R D E R”

The Criminal Application is allowed.

Applicant is released on P.R. Bond of Rs.25,000/- with one or two sureties in the like amount, subject to

condition that he should give attendance at concerned
Manmad City Police Station, Manmad, Dist. Nashik,
once in three months on first Monday in between 11
am to 1 pm.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [ACTING CHIEF JUSTICE]