

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1537 OF 2015
in
CRIMINAL APPEAL NO. 1359 OF 2012

Rameshchandra Surajbali Jaiswal	...	Applicant
vs.		(Orig. Accused)
The State of Maharashtra	...	Respondent

Mr. Y.K.Chaudhari, Advocate for the applicant.

Mr. Arfan Sait, APP, for the State.

Mr. Laxman B. Rathod, API, Narpoli Police Station present.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 21st December, 2015.

P.C.

Heard respective counsel.

2. The applicant hereby by judgment and order dated 7.11.2012 was convicted by 1st Ad hoc Addl. Sessions Judge, Thane, in Sessions Case No.382 of 2009 for the offence punishable under Section 343 of the Indian Penal Code and was sentenced to simple imprisonment for three months and fine of Rs.2,000/- in default S.I. for one month. The learned Sessions Court had observed that the accused was in jail during the period 31.8.2006 till 26.9.2006.

3. Being aggrieved by the said judgment and order, the applicant herein has filed Criminal Appeal No.1359 of 2012. By an order dated 28.1.2013, this Court (Coram: Smt. Sadhana S.Jadhav, J.) had admitted the appeal and had allowed the application seeking suspension of substantive sentence. The substantive sentence was suspended on condition that he shall furnish P.R. Bond in the sum of Rs.15,000/- and one solvent surety in the like amount. He was further directed to report before the 1st Ad hoc Addl. Sessions Judge, Thane, one in six months on the date specified by the Sessions Court.

4. The applicant herein had not furnished bail till today. The Sessions Court had issuedailable warrant which was served upon the applicant on 31.7.2014. However, the applicant had not furnished surety and had not complied with the order dated 28.1.2013. In view of this, by an order dated 2.12.2015, this Court had issued non-bailable warrant against the present applicant and it was directed that the non-bailable warrant be executed through the Senior Inspector of Police, Narpoli Police Station within two weeks.

5. The Police officer of Narpoli Police Station is present before the Court. It is reported that the non-bailable warrant has been executed on

10.12.2015 and the applicant was taken into custody. He continues to be in custody. In view of this, the applicant has filed a fresh application seeking suspension of substantive sentence.

6. Since the applicant was sentenced to three months' imprisonment for the offence punishable under Section 343 of IPC, and had almost undergone about 26 days during the pendency of the appeal and has now undergone 10 days in custody, this Court is inclined to suspend the substantive sentence upon imposing certain conditions. The application deserves to be allowed.

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant by a judgment and order dated 7.11.2012 is hereby suspended.
- (iii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.
- (iv) The applicant shall report to the Court of Sessions, Thane, once in three months till the final disposal of the appeal.
- (v) The applicant hails from the State of U.P. The applicant shall not leave Thane without prior permission of the Sessions Court, Thane.

- (vi) The learned Sessions Judge, Thane, shall send the compliance report within six weeks from today.
- (vii) The parties to act on an authenticated copy of this order.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)