

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CRIMINAL APPLICATION NO.1684 OF 2014
IN
CRIMINAL APPEAL NO.473 OF 2013**

Balasaheb @ Lallya Balu Sakat	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

.....

Mr.Vinod Kashid, Advocate for the Applicant.
Ms.Anamika Malhotra, APP for the Respondent/State.

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CORAM : ABHAY M. THIPSAY J.

DATED : 28TH JANUARY, 2015

P.C.

1. The applicant's appeal challenging his conviction in respect of the offences punishable under Section 392 and 394 of the Indian Penal Code read with Section 34 of the IPC as recorded by the Ad-hoc Additional Sessions Judge, Shiwari, Mumbai has already been admitted. By the present application, the applicant prays that pending the hearing and final disposal of appeal, the substantive sentence imposed upon him be suspended and he be released on bail.

2. The applicant has been sentenced to suffer Rigorous

Imprisonment for seven years. He is in custody since 16th March, 2012.

3. There were three others who were prosecuted along with the present applicant and those three were also convicted by the learned Ad-hoc Additional Sessions Judge. All of them have preferred appeals challenging their conviction, which have been admitted and all of them have been released on bail by suspending the sentence imposed upon them pending the hearing and final disposal of the appeals.

4. The learned counsel for the applicant submitted that initially, the prosecution case was that the present applicant is the one, who had snatched the chain of the victim. In the evidence that was adduced during the trial, no such role was attributed by anyone to the applicant. The only role attributed to the applicant is that he was at the material time saying “pakdo, pakdo”.

5. When the appeal was admitted, the co-appellant was released on bail by this Court, but the applicant was not released on the ground of some previous cases being pending against him. However, liberty was granted to the applicant to make a fresh bail application after 9 months from the date of the said order i.e. 19th March, 2014. It is pursuant thereto that the present application has been made.

6. The case of the applicant is in noway different from that of the other accused. Sentences imposed upon them have been suspended during the pendency of the appeals filed by them challenging the conviction. As a matter of fact, the one who appears to have been apprehended on the spot has also been released on bail by suspending the sentence imposed upon him. The case of the applicant for bail, is certainly on a rather better footing.

7. The application is allowed.

8. Pending the hearing and final disposal of the appeal, the substantive sentence imposed upon the applicant/appellant shall stand suspended; and the applicant/appellant shall be released on bail in the sum of Rs.15,000/- with one surety in like amount, on the condition that he shall report to the trial Court on the first Monday of each calender month, till the disposal of the appeal.

9. Should the Court be closed on a given Monday, the applicant/appellant shall report to the trial Court on the next working day.

10. Any default in reporting to the trial Court, as directed above, shall forthwith be reported by the trial Court to this Court, for further appropriate action.

11. Application is disposed of in aforesaid terms.

(ABHAY M. THIPSAY J.)