

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1592 OF 2015
IN
CRIMINAL APPEAL NO. 398 OF 1996

Subhash Sugandh Jagtap. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Rahul Kate, advocate for Applicant.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : DECEMBER 23, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This Court had appointed the learned Advocate Mr. Kartik Garg for espousing the cause of the applicant. However, after execution of the non-bailable warrant, the applicant has engaged learned Counsel Mr. Kate and therefore, learned Advocate Mr. Kartik Garg is discharged from appearance.

3 This is an application seeking enlargement on bail as the applicant has been taken into custody on 17/12/2015 in pursuance to the non-bailable warrant issued against him. The applicant herein is convicted by the Additional Sessions Judge, Baramati in Sessions Case No. 13 of 1994 for offence punishable under Section 304(2) of the Indian Penal Code and Section 324 read with Section 149 of the Indian Penal Code, Section 326 read with Section 149 of the Indian Penal Code and is sentenced to suffer R.I. for 8 years and to pay fine of Rs. 1000/- vide Judgment and Order dated 18/10/1995. The applicant had no family member to espouse his case and therefore, he had filed jail appeal. The Hon'ble Court was pleased to appoint the advocate to espouse the cause of the applicant.

4 It was seen that none appeared for applicant on several occasions despite the matter being listed for final hearing. The appeal is of the year 1996. The applicant herein was arrested on 30/9/1993 and was enlarged on bail on 4/10/1994. The applicant was taken into custody on 1/2/1995. The Hon'ble High Court was pleased to enlarge the applicant on bail vide order dated 13/8/1996. Since there was nobody to espouse his cause, he should be

enlarged on bail only on 10/9/1996. The advocate appointed by the Court did not remain present for final hearing. The applicant was unaware of this fact. This Court was therefore, constrained to issue non-bailable warrant on 5/12/2015. The non-bailable warrant was executed and the applicant was taken into custody on 17/12/2015. He was produced before this Court on 18/12/2015 and was sent to jail alongwith police officer. The applicant has engaged an advocate at present. The learned Counsel submits that he would conduct the matter on the next date and till then the applicant be enlarged on bail.

5 Taking into consideration the fact that the applicant was not aware of the date of the final hearing and the advocate appointed by the High Court had not prosecuted the matter diligently, this Court is inclined to consider the application sympathetically. Hence, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.

(iii) The applicant shall report to the Additional Sessions Judge, Baramati, once in 6 months on the date specified by the learned Court.

(iv) 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.

(v) At the time of furnishing bail bond, the applicant shall furnish his permanent address, cell phone number as well as the address and cell phone number of the sureties.

6 Application stands disposed of.

Parties to act on an authenticated copy of this order.

(SMT. SADHANA S. JADHAV,J)