

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1530 OF 2016
WITH
CRIMINAL APPLICATION NO. 1529 OF 2016
IN
CRIMINAL APPEAL NO. 140 OF 2016**

Ramesh Narayan Thorat

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. M.M. Bhokarikar, Advocate for applicant.

Mr. S.N. Morampalle, APP for respondent.

....

CORAM : INDIRA K. JAIN, J.

DATED : 4th APRIL, 2016

ORDER :

. Criminal Application No.1530 of 2016 is for suspension of substantive sentence of imprisonment dated 07.03.2016 passed by the learned Additional Sessions Judge, Bhusawal in Sessions Case No. 155/2014 convicting the accused of the offences punishable under Sections 328 and 379 of the Indian Penal Code.

2. Heard Mr. Bhokarikar, learned Counsel for applicant and Mr. Morampalle, learned APP for State. Perused record.

3. With the assistance of learned Counsel for parties this Court has gone through the evidence on record. Prosecution did not examine complainant who was the victim and the sole witness on alleged theft of articles from his pocket. His evidence was most important. Medical evidence shows the possibility of food poisoning. It appears that relying upon testimony of police persons, Trial Court came to the conclusion that guilt was established.

4. The sentence imposed by the Trial Court for the offence punishable under Section 328 of the Indian Penal Code is rigorous imprisonment of five years and fine of Rs.5,000/- with default clause and for Section 379 of the Indian Penal Code is rigorous imprisonment for one year with fine and default clause.

5. Applicant was on bail during Trial. Considering the evidence, nature of offences alleged and the term of sentence imposed, this Court finds it fit to suspend the substantive sentence till disposal of Criminal Appeal. Hence the following order:

ORDER

- I) Criminal Application Nos. 1530 of 2016 is allowed.
- II) Substantive sentence of imprisonment is suspended till decision of Criminal Appeal No.140 of 2016.

- III) Applicant is released on bail on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand Only) each.
- IV) Bail before the Trial Court.
- V) Criminal Application No. 1529 of 2016 stands disposed of.

(INDIRA K. JAIN, J.)