

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

**CRIMINAL APPLICATION NO. 2548 OF 2016
WITH
CRIMINAL APPLICATION NO. 2476 OF 2016
IN
CRIMINAL REVISION APPLICATION (ST) NO. 115 OF 2016**

Sanjay Babulal Patil ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

....
Mr. M.S. Sonawane, Advocate for applicant.
Ms. R.P. Gaur, APP for respondent.

....
**CORAM : N.W. SAMBRE, J.
DATED : 4th MAY, 2016**

ORDER :

1. The applicant was convicted by the learned Judicial Magistrate First Class, Dhule for the offence punishable under Section 304(A) of the Indian Penal Code, ordering to undergo Rigorous Imprisonment for one year and to pay fine of Rs.3,000/-, in default, Simple Imprisonment for one month. He is also convicted for an offence punishable under Section 338 of the Indian Penal Code and ordered to suffer Rigorous Imprisonment for two months.

2. In appeal at the behest of the applicant, the order of Magistrate was confirmed by the Additional Sessions Judge, Dhule by judgment and order dated 29th October 2015. It is claimed that same has

permitted the present applicant to file Criminal Revision Application No. 208/2015 when he was already in jail under going the imprisonment. Since at that time he was not in fit state of mind, he had informed his lawyer to withdraw the revision as such the revision came to be disposed of (not dismissed) by an order dated 18th November, 2015.

3. It is after taking treatment for his mental ailment, he has preferred this second revision questioning the conviction.

4. The learned Counsel for the applicant would submit that in the interest of justice it is necessary to look into the order of conviction, particularly since the law assures fair opportunity of hearing. He would then submit that when the earlier revision was disposed of as withdrawn, the matter was not heard on merits but was simplicitor disposed of, as prayer for withdrawal was made. As such interest of justice warrants that the matter be heard afresh by recalling the order dated 18th November 2015 disposing of the earlier Criminal Revision Application No. 208/2015, or in alternate to hear the present revision by condoning the delay.

5. The applicant would also submit that he may be granted liberty to place on record the evidence, which is in the form of prescription given by the Doctor so as to establish his medical ailment.

6. According to him, the fact remains that the applicant was on bail before the learned Judicial Magistrate First Class so also before the appellate Court and as such he may granted bail as he has already deposited the fine amount.

7. What is noted from the above referred background is the order of withdrawal was passed by the another Court in the light of assignment as was fixed at the relevant time. In the background of the submissions made, in my opinion, it will be appropriate for the present applicant to take following step:

To move the same Court for hearing of the revision, in the light of the submissions recorded hereinabove, to recall and set aside the earlier order dated 18th November 2015 passed in Criminal Revision Application No. 208/2015, ordering condonation of delay to entertain the present revision and decide the same on merits.

8. Since, for taking above referred step it is likely to take some time, the learned Counsel submits that he will take appropriate steps in the matter within six weeks from today. In the above referred background, it will be appropriate in my opinion to grant bail to the applicant and accordingly bail is granted to the applicant on the same terms on which he was admitted on bail before the learned Trial Court. Hence Criminal Application No. 2548 of 2016 is disposed of.

9. The learned Counsel for the applicant undertakes to mention Criminal Revision Application (St) No. 115 of 2016 with Criminal Application No. 2476 of 2016 in the first week of June before the Bench presided by Hon'ble Justice Kum. I.K. Jain, who has passed the earlier order.

(N.W. SAMBRE, J.)