

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

CRIMINAL APPLICATION NO.2887 OF 2016
IN
CRIMINAL APPEAL NO.343 OF 2016

Sandipan s/o Asaram Bhumre,
Age 55 years, Occu.Member of
Legislative Assembly,
R/o Pachod, Taluka Paithan,
District Aurangabad ..Applicant

Versus

The State of Maharashtra,
(at the instance of M.I.D.C.
Paithan Police Station,
District Aurangabad) ..Respondent

Mr K.G. Bhosale, Advocate for applicant
Mr R.B. Bagul, A.P.P. for respondent

CORAM : SANGITRAO S. PATIL, J.

**DATE : 2nd June 2016
(Vacation Court)**

PER COURT

1. Not on board. Mentioned. Taken on board at the request of learned Counsel for the applicant/appellant.

2. Admit the appeal. Issue notice to the respondent in respect of the appeal, returnable on

20th June 2016. The learned A.P.P. waives service of notice for the respondent.

3. Heard the learned Counsel for the applicant and the learned A.P.P. for the respondent-State.

4. The applicant/appellant has been convicted in Sessions Case No.275/2010 on 30th May 2016 by the learned Additional Sessions Judge, Aurangabad for the offence punishable under Section 353 read with Section 149 of the Indian Penal Code and sentenced to suffer simple imprisonment for one year and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for ten days. He has been further convicted for the offence punishable under Section 143 of the Indian Penal Code and sentenced to suffer simple imprisonment for six months and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for ten days. The applicant has challenged his conviction and sentence on various legal as well as factual grounds by filing this appeal.

5. The learned Counsel for the applicant/appellant submits that the copy of the impugned judgment has not yet been made available to the appellant though the application has been filed on the same day on which the judgment of conviction was pronounced. He has produced operative part of the impugned judgment of conviction and sentence. He submits that the appellant has good chances of success in the appeal.

6. The learned Counsel for the applicant submits that the applicant is a sitting M.L.A. from Paithan constituency. Moreover, he is the Chairman of Shri Sant Eknath Co-operative Sugar Factory Ltd., Eknathnagar, Taluka-Paithan, District-Aurangabad. The election programme for the said sugar factory has been declared by the Returning Officer on 30th May 2016. Accordingly, the nomination forms for the posts of Directors are to be filed by 3.00 p.m. on 3rd June 2016. The applicant is interested in contesting the said elections. He submits that because of the judgment of conviction, which is

under challenge in the present appeal, the applicant would suffer disqualification in respect of his position as an M.L.A. and also would not be qualified for presenting his nomination form for the Directorship of the abovenamed sugar factory. Considering these serious consequences, he submits that the conviction recorded against the applicant/appellant may be suspended. In support of his contention, he relied on the cases of **Navjot Singh Sidhu Vs. State of Punjab and anr., (2007) 2 SCC 574, Rama Narang Vs. Ramesh Narang and ors., (1995) 2 SCC 513 and Ravikant S. Patil Vs. Sarvabhouta S. Bagali (2007) 1 SCC 673.**

7. In the first case, the appellant was convicted for the offence punishable under Section 304 (Part II) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.1 lakh. In the second case, the appellant was convicted for the offences punishable under Sections 120-B and 420 read with Section 114 of the Indian Penal Code and sentenced to suffer

rigorous imprisonment for three months on the first count and rigorous imprisonment for two and half years and to pay a fine of Rs.5,000/- on the second count. In the third case, the appellant was convicted and sentenced to undergo rigorous imprisonment for a period of seven years. In all these cases, because of the convictions recorded against the appellants therein, they were going to suffer disqualification. In the circumstances, the convictions recorded against them were ordered to be suspended/stayed till the decision of the appeals.

8. In the present case, the appellant being an M.L.A., would face disqualification because of the conviction recorded against him. Moreover, he would be disqualified from filing the nomination form for Directorship of the abovenamed sugar factory, whereof presently he is the Chairman. Considering these serious consequences and the above cited rulings, I am of the view that the above referred conviction recorded against the appellant should be suspended. If the conviction itself is suspended,

the execution of the sentence would get suspended automatically. In the result, I pass the following order:

ORDER

(1) The conviction and sentence recorded against the applicant/appellant in Sessions Case No.275 of 2010 by the learned Additional Sessions Judge, Aurangabad on 30th May 2016 are suspended and the conviction shall not be operative till the decision of the present appeal, on his furnishing personal bond in the sum of Rs.15,000/- with a surety in the like amount.

(2) The bail bonds shall be furnished before the trial Court.

(3) The parties shall act upon authenticated copy of this order.

(4) Humdast allowed.

(5) Call R & P.

(6) Application stands disposed of.

(SANGITRAO S. PATIL, J.)

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