

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

CRIMINAL REVISION APPLICATION NO.173 OF 2004

Ramesh s/o Rambhau Bodhle
Age 35 years, Occ. Labour,
R/o Bori, Tq. Jintoor,
District Parbhani

... PETITIONER

VERSUS

The State of Maharashtra
through the Sub-Inspector,
Prohibition & Excise, Jintoor
(Copy to be served on the
Public Prosecutor, High Court,
Bench at Aurangabad)

... RESPONDENT

.....
Shri A.R. Nikam, Advocate for petitioner
Shri C.V. Dharurkar, A.P.P. for respondent/ State
.....

CORAM: N.W. SAMBRE, J.

DATED: 24th October, 2016.

ORAL JUDGMENT :

1. Heard Shri Nikam, learned counsel for the petitioner and Shri Dharurkar, learned A.P.P. for the State. In Criminal Trial, being S.C.C. No.69/2002, the Judicial Magistrate, First Class convicted the present petitioner for an offence punishable under Section 66(1)(b) of the Bombay

Prohibition Act and sentenced him to suffer rigorous imprisonment for three months and fine of Rs.500/-, in default, simple imprisonment for 15 days. In appeal being Appeal No.4/2003, the appellate Court confirmed the conviction. As such, the present revision against the conviction.

2. Shri Nikam, the learned counsel would impress upon the Court to release the petitioner on merits. However, looking to the nature of evidence as is brought on record and the prosecution having proved the case beyond reasonable doubt, including that of the C.A. Report Exh.17 in connection with the C.A. sample, which demonstrates the contents of ethyl alcohol in the contraband and the evidence of Constable Babu (P.W.1), no case for interference in conviction is made out.

3. This takes me to the next limb of submission of Shri Nikam. According to him, the incident in question has taken place as back as on 2/11/2000 and the petitioner has suffered for last 16 years because of his alleged act and the petitioner is in custody from 10/10/2016 till this date. He would submit that, the provisions of Probation of Offenders Act be extended to the present petitioner as he is sentenced

just for three months. In addition, he would submit that, during the pendency, the petitioner is not convicted in any other crime.

4. In view thereof, and having regard to the age of the petitioner, in my opinion, it is a fit case wherein this Court needs to exercise the jurisdiction under the Probation of Offenders Act and order his release, I propose to pass the following order:

5. The conviction of the present petitioner under the provisions of the Bombay Prohibition Act is maintained, whereas the sentence is set aside. The petitioner shall appear before the Probation Officer within a period of four weeks from today and shall execute a bond of good behaviour with one surety in the like amount for a period of 18 months. The petitioner shall also attend the office of Probation Officer once in every six months. With the above observations, present Criminal Revision Application stands disposed of. The petitioner be set free if not required in any other offence.

(N.W. SAMBRE, J.)