

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.196 OF 2016

IN

CRIMINAL APPEAL NO.981 OF 2013

GANESH TUKARAM MORE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Shri Kuldeep Patil, Advocate for the Applicant.

Smt.PPBhosale, APP for the Respondent – State.

Shri Kale, Police Constable, B.No.32683, Velapur Police Station,
present in court.

CORAM : ABHAY M. THIPSAY, J.

DATE : 29th APRIL 2016.

P.C. :

1 Heard Shri Kuldeep Patil, the learned counsel for the
applicant. Heard Smt.PPBhosale, the learned APP for the State.

2 The appeal filed by the applicant challenging his conviction and the sentence imposed upon him has already been admitted. By the present application, the applicant prays that pending the hearing and final disposal of the appeal, the substantive sentence imposed upon him be suspended; and that he be released on bail.

3 The applicant and the other accused in the said case had applied for suspension of sentence previously. Though the co-accused have been released on bail from time to time, the applicant has not been released on bail. Today, all the co-accused in the said case, who were convicted along with the applicant, have been released on bail by suspending the sentence imposed upon them.

4 Though the co-accused were released on bail earlier, the applicant was not released as the case against him was thought to be some what different from that of the co-accused, who were released on bail. However, while rejecting the

applicant's previous application for suspension of sentence and bail, liberty was granted to the applicant to apply for suspension of sentence afresh, in the event of the appeal not being taken up for final hearing within a period of nine months from the date of the said order i.e. 21st April 2015 (Criminal Application No.1624 of 2013).

5 Shri Kuldeep Patil, the learned counsel for the applicant, submits that pursuant to the liberty granted by the court while rejecting the applicant's previous application, the present application has been preferred. He points out that, apart from the fact that all the other accused, who were convicted in the same case, have been released on bail, the applicant has served more than half of the sentence imposed upon him, if remissions are taken into consideration. I find that the applicant has actually undergone a sentence of more than 3 years and 5 months.

6 In the ordinary course, the appeal is not likely to be taken up for final hearing within a short time.

7 The learned APP informs that apart from the conviction in the present case, the applicant is also involved in one more case, which is in respect of an offence punishable under Sections 457 of the IPC and 380 of the IPC. This case has been registered at Velapur Police Station and is said to be pending. Shri Kuldeep Patil states that some of the co-accused, sentences imposed upon whom have been suspended, have also some criminal record.

8 Considering all the relevant aspects of the matter, I am inclined to allow the application, subject to certain conditions.

9 Pending the hearing and final disposal of the appeal, the substantive sentence imposed upon the applicant shall stand suspended; and the applicant shall be released on bail in the sum of Rs.30,000/-, with 1 surety in like amount, on the following conditions :

- i) The applicant shall report to Sangola Taluka Police Station, District Solapur, on every alternate Sunday.

ii) The applicant shall not enter into the local limits of Vaduj Police Station.

iii) The applicant shall report to the trial court on the first Monday of each calendar month, till the disposal of the appeal.

10 The application is allowed in the aforesaid terms.

(ABHAY M. THIPSAY, J.)