

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CRIMINAL APPLICATION NO.20 OF 2015
IN
CRIMINAL APPEAL NO.1082 OF 2013**

Rais @ Jamil Bahsir Shaikh ... **Applicant**
V/s.

The State of Maharashtra ... **Respondent**

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Mr.Murtaza Najmi i/b. Farida M. Najmi, Advocate for the Applicant.

Mrs.P.P.Bhosale, APP for the Respondent.

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CORAM : ABHAY M. THIPSAY J.

DATED : 3rd March 2016.

P.C.

1. Heard Mr.Murtaza Nazmi, the learned counsel for the applicant. Heard Mrs.P.P.Bhosale, the learned Additional Public Prosecutor for the respondent/State.

2. The Appeal filed by the applicant challenging his conviction in respect of an offence punishable under Section 394 of the Indian Penal Code read with Section 397 of the IPC and the sentence of Rigorous Imprisonment for 10 years and a fine of Rs.5000/- imposed upon him, has already been admitted. By the

present application, the applicant prays that substantive sentence imposed upon him be suspended during the pendency of appeal and that he be released on bail.

3. With the assistance of the learned counsel for the applicant and the learned APP, I have glanced through the relevant evidence. I have also glanced through the relevant part of the impugned Judgment.

4. The case against the applicant is based primarily on his identification as one of the culprits by two witnesses. The identification of the applicant was supported by a Test Identification Parade that had taken place about six months after the incident and about three months after the apprehension of the applicant.

5. The applicant is already in custody since the time of his arrest i.e. since 22nd December 2009. He has, thus, already undergone an actual sentence of more than six years.

6. In the ordinary course, the appeal cannot be taken up for final hearing within a short time. The learned counsel for the applicant submits that at the time of offence the applicant was only of about 19 years of age.

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

8. The Application is allowed.

9. Pending and 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 one surety in like amount on the following conditions:

- i) The applicant shall report to the Wadala Railway Police Station on every Monday and every Thursday between 5.00 p.m. to 7.00 p.m. till the disposal of the Appeal.
- ii) The applicant shall also report to the trial Court on the first Monday of each calender month till the disposal of the Appeal.

Should the trial Court be closed on any given Monday on account of holiday, the applicant shall report to the trial Court on the next working day.

10. The applicant is given an option to furnish two sureties in the sum of Rs.15,000/- each.

11. The application is disposed of in the aforesaid terms.

(ABHAY M. THIPSAY J.)