

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 12 OF 2016
IN
CRIMINAL REVISION APPLICATION ST NO. 15 OF 2016

Sanjay Pundalik Desai

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Vivek V. Salunke for the applicant

Mrs. A. A. Mane APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : JANUARY 29, 2016.

PC :

Not on board. Upon production, taken on board.

Heard. This is an application seeking suspension of substantive sentence imposed upon the applicant. Applicant herein was convicted by Judicial Magistrate First Class, Kalwan in R.C.C. No. 138 of 1996 for offence punishable under sections 7 (i) r/w Section 2 (ia) (c) and 2 (ia) (m) of Prevention of Food Adulteration Act, 1954 and was sentenced to suffer rigorous imprisonment for 6 months and fine of Rs. 1000/- in default to suffer further rigorous imprisonment for one month.

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2) Being aggrieved by the said Judgment and Order, applicant herein had filed Criminal Appeal No. 252 of 2008 before Sessions Court at Nashik. Learned Sessions Judge vide Judgment and Order dated 30/03/2015 was pleased to dismiss the appeal and had directed the applicant to surrender before the Trial Court.

3) Learned counsel for the applicant submits that applicant has surrendered before Judicial Magistrate First Class, Kalwan today i.e. 29/01/2016 at 11.00 a.m. and is in the custody of learned Magistrate. Learned counsel further submits that applicant was on bail during the pendency of trial as well as during the pendency of appeal. Learned counsel submits that applicant did not have sufficient opportunity to present himself as a defence witness and the same has caused prejudice to him.

4) In any case, revision application is admitted by this court. In view of this, substantive sentence imposed upon the applicant deserves to be suspended during the pendency of revision application. Hence, following order.

ORDER

(i) Application is allowed.

- (ii) The Substantive sentence imposed upon the applicant is hereby suspended and he be enlarged on same bail, fresh bonds.
- (iii) Applicant be enlarged on bail forthwith, if not required in any other offence.
- (iv) Applicant shall report to court of Judicial Magistrate First Class, Kalwan, once in six months, as directed by the concerned court, till the conclusion of revision application.
- (v) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.
- (vi) Application stands disposed of.
- (vii) Parties to act on authenticated copy.

(SMT. SADHANA S. JADHAV, J.)