

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 249 OF 2016
IN
CRIMINAL APPEAL NO. 150 OF 2016

Shriram Balasaheb Hivare. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. H.S. Venegaonkar, advocate for Applicant.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : MARCH 1, 2016

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State.

2 This is an application under Section 389 of the Code of Criminal
Procedure, 1973 seeking suspension of substantive sentence imposed
upon the applicant. The applicant herein is original Accused No. 1 in
Sessions Case No. 280 of 2013. The Additional Sessions Judge, Thane

vide Judgment and Order dated 5/2/2016 has been pleased to convict the applicant for the offence punishable under Section 498A of the Indian Penal Code and sentenced him to suffer R.I. for 3 years and to pay fine of Rs. 1,000/- I.d. to suffer S.I. of one month.

3 The learned Counsel for the applicant submits that the sentence imposed upon the applicant is a short term sentence and hence, he be enlarged on bail during the pendency of the appeal. However, the learned APP submits that the applicant herein was charged with Section 304-B and Section 302 of the Indian Penal Code and that the State may in all possibility file appeal against acquittal for the offence under Section 304-B and Section 302 of the Indian Penal Code.

4 In any case, as on today, the sentence imposed upon the applicant is 3 years and the same has been suspended by the Additional Sessions Judge, Thane on 5/2/2016 itself. The applicant has undergone imprisonment approximately for four months. In view

of this, the applicant deserves to be enlarged on bail during the pendency of the appeal.

5 Hence, following order is passed :

ORDER

(i) The Criminal Application is allowed.

(ii) The substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail. Same bail fresh bond.

(iii) The applicant shall furnish fresh bail bonds before the Sessions Court, Thane within 3 weeks from today. Upon failure to furnish bail bonds within 3 weeks, the learned Sessions Judge, Thane shall issue non-bailable warrant calling upon the applicant to serve the rest of sentence.

(iv) The applicant shall furnish his residential address, contact numbers like landline number, cell phone number etc. to the concerned court.

(v) The applicant shall report to the Court of Sessions, Thane once in 6 months on the date specified by the concerned court. Upon failure to attend on two consecutive dates, the prosecution is at liberty to move for cancellation of bail.

6 It is made clear that suspension of sentence shall not be construed as suspension of conviction. The applicant is at liberty to file fresh application seeking suspension of conviction.

7 The Criminal Application is disposed of accordingly.

Parties to act on the authenticated copy of this order.

(SMT. SADHANA S. JADHAV,J)