

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 542 OF 2016
IN
CRIMINAL APPEAL NO. 293 OF 2016

Vinod Mukand Meher	...	Applicant
vs.		(Orig. Accused No.2)
The State of Maharashtra	...	Respondent

Mr. Fausal Vora i/b. Mr. Ajeet A.Manwani, Advocate for the applicant.
Mr. S.S.Pednekar, APP, for the State.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 20th April, 2016.

P.C.

This is an application under Section 389 of Cr.P.C. The applicant herein is original accused No.2 in Sessions Case No.230 of 2013.

2. The learned counsel for the applicant submits that original accused No.1 is convicted for the offence punishable under Section 302 of IPC and sentenced to death subject to confirmation by the Hon'ble High Court.

3. As far as the present applicant is concerned, the role attributed to him is discussed by the learned Sessions Judge in para 47 of the Judgment dated 28.3.2016. In para 47 of the judgment, it prima facie appears that the learned Sessions Judge was of the opinion that the original accused No.1

had informed the present applicant about the incident. However, he had not taken any effective steps in reporting the same to the police and, therefore, the learned Sessions Judge held that the “accused No.2 could have verified the fact of incident put up by accused No.1, but the silence on the part of accused No.2 without any reaction leads to the conclusion that he also deserves conviction under Section 201 of Indian Penal Code as provided for capital sentence.” The learned Sessions Judge has been pleased to convict the applicant of the offence punishable under Section 201 of IPC and sentenced him to suffer R.I. for three years and fine of Rs.5,000/-, in default R.I. for six months.

4. The learned counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. The sentence imposed upon the applicant is a short-term sentence. In any case, the Confirmation Case is to be heard by the Division Bench and the present appeal can be heard by the Hon'ble Division Bench. In view of this, the substantive sentence imposed upon the applicant deserves to be suspended.

ORDER

(i) The application is allowed.

- (ii) The substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or more solvent sureties in the like amount.
- (iii) The applicant be enlarged on provisional cash bail for a period of four weeks from today.
- (iv) The applicant shall furnish bail before the Sessions Court, Greater Mumbai, within four weeks from the date of release.
- (v) The applicant shall report to the Court of Sessions, Mumbai, once in three months on the dates specified by that Court.
- (vi) In case of failure to attend on any two consecutive dates, the prosecution shall be at liberty to move for cancellation of bail.
- (vii) The applicant shall give an undertaking to this Court that if in the eventuality an order is passed by the Hon'ble Division Bench, he shall remain present for the final hearing of the Confirmation Case.

(viii) Parties to act on an authenticated copy of this order.

Application is allowed and disposed of in the above terms.

(SMT.SADHANA S.JADHAV, J.)