

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.683 OF 2013**

**IN**

**CRIMINAL APPEAL NO.504 OF 2013**

**DATTATRAYA RAMCHANDRA KORDE&ORS. )...APPLICANTS**

**V/s.**

**THE STATE OF MAHARASHTRA )...RESPONDENT**

Shri Prashant Patil, Advocate for the Applicant.

Shri V.B.KondeDeshmukh, APP for the Respondent – State.

**WITH**

**CRIMINAL APPLICATION NO.829 OF 2013**

**IN**

**CRIMINAL APPEAL NO.657 OF 2013**

**GANESH RAMESH ZOLE )...APPLICANT**

**V/s.**

**THE STATE OF MAHARASHTRA )...RESPONDENT**

Shri S.A.Ghaisas, Advocate for the Applicant.

Shri V.B.KondeDeshmukh, APP for the Respondent – State.

**CORAM : ABHAY M. THIPSAY, J.**

**DATE : 29<sup>th</sup> FEBRUARY 2016.**

**P.C. :**

1           These two applications, though filed in two different appeals, can be conveniently disposed of by this common order, as the applicants / appellants in both the appeals have been convicted on one and the same trial held by the Additional Sessions Judge, Nasik. The applicants have been convicted of an offence punishable under Section 376(2)(g) of the Indian Penal Code (IPC) and have been sentenced to suffer Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/- each. They have also been convicted of an offence punishable under Section 395 of the IPC and have been sentenced to suffer Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/- each. Additionally, the appellants are convicted of offences punishable under Section 342 of the IPC read with Section 34 of the IPC, Section 323 of the IPC read with Section 34 of the IPC, Section 504 of the IPC read with Section 34 of the IPC and Section 506 of the IPC read with Section 34 of the IPC, and have been awarded sentence of various terms of imprisonment and fine. It has been

directed that all the substantive sentences would run concurrently. The above separate appeals filed by the applicants challenging their conviction and the sentences imposed upon them have already been admitted. By these applications, the applicants pray that pending the hearing and final disposal of the appeals, the substantive sentences imposed upon them be suspended and they be released on bail.

2           I have heard Shri Prashant Patil and Shri S.A.Ghaisas, the learned counsel for the applicants. I have heard Shri V.B.KondeDeshmukh, the learned APP for the State. With the assistance of the learned counsel for the applicants, I have gone through the relevant evidence, and more particularly, that of the prosecutrix / victim herself, and Prosecution Witness No.2, who was supposed to be present at the time of the incident.

3           Though a number of contentions are raised about the unreliability about the identification of the culprits, in my opinion, the finer aspects of the matter can be properly decided only at the

time of the final hearing of the appeals. Since the hearing of the appeals has already been ordered to be expedited and the appeals have been directed to be listed on board for final hearing, they are expected to be decided expeditiously and within a reasonable time.

4           After considering all the relevant aspects of the matter, I do not think that a case for suspension of sentences imposed upon any of the applicants is made out. It is true that the applicant no.3 in Criminal Application No.683 of 2013 and the applicant in Criminal Application No.829 of 2013 are not alleged to have committed the actual rape, but I do not think that even their case needs to be treated differently from that of the other applicants, for the purposes of suspension of sentences.

5           The applications are rejected.

6           The appeals be listed for 'Final Hearing', peremptorily, on 4<sup>th</sup> April 2016.

(ABHAY M. THIPSAY, J.)