

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.875 OF 2016
IN
CRIMINAL APPEAL NO.480 OF 2016

Prakash Bhiva Mayekar	.. Applicant
<i>Versus</i>	
Union of India and anr	.. Respondents

WITH

CRIMINAL APPEAL No.478 of 2016

Nitin Narayan Mistry and anr	.. Appellant
<i>Versus</i>	
The State of Maharashtra	.. Respondent

WITH

CRIMINAL APPLICATION NO.870 OF 2016
IN
CRIMINAL APPEAL NO.478 OF 2016

Nandesh Bhikuram Kadwadkar	.. Applicant
<i>Versus</i>	
The State of Maharashtra	.. Respondent

WITH

CRIMINAL APPLICATION NO.883 OF 2016
IN
CRIMINAL APPEAL NO.478 OF 2016

Ramratan Srinivas Soni	.. Applicant
<i>Versus</i>	
The State of Maharashtra	.. Respondent

WITH

**CRIMINAL APPLICATION NO.884 OF 2016
IN
CRIMINAL APPEAL NO.478 OF 2016**

Nitin Narayan Mistry .. Applicant
Versus
The State of Maharashtra & Anr .. Respondents

Mr.Omkar P. Mulekar, Advocate for the applicants.

Mr.Santosh M. Deshpande, Advocate for appellant.

Mr.Pradeep D. Gharat, Sp.PP for the Respondent State.

CORAM : PN. DESHMUKH, J

DATED : 26th SEPTEMBER 2016

P.C. :

1 Accused nos.1 to 4 who came to be convicted by the learned Addl. Sessions Judge, Gr.Mumbai in Sessions Case No.583/08 have filed these applications for suspension of substantive sentence and for bail.

2 Accused came to be convicted for the offence punishable u/s.259 IPC and are sentenced to undergo RI for 4 years and to pay fine of Rs.20,000/- each in default of payment of fine to undergo SI for 3 months. Accused are also convicted for the offence punishable u/s.261 IPC and are sentenced to suffer RI for 2 years and to pay fine of Rs.20,000/- each in default to undergo SI for 3 months. Accused are further convicted for the offence punishable u/s.263 IPC and are sentenced to suffer SI for 2 years and to pay fine of Rs.20,000/- each in default to undergo further SI for 3 months. All the sentences are directed to run

concurrently.

3 Learned counsel for the applicants had submitted that maximum sentenced imposed upon applicants by impugned judgment under section 259 IPC is for 4 years, and it is further contended that pending trial, all the applicants were on bail.

4 It is no case of prosecution that while on bail, applicants misused liberty granted to them.

5 It does not appears to be the case of prosecution that duplicate or bogus stamps were printed. According to the FSL report, it is certified that genuine stamps were removed from the original documents and said stamps were washed for its re-use. One of the contentions before the learned trial Court raised by applicants were that said stamps which were seized, were not sent for its analysis to Indian Security Press, Nasik, but were sent to FSL and that report thus could not be taken into consideration.

6 Thus, it does not appear to be the case of prosecution that applicants used duplicate stamps as genuine, but the genuine stamps were alleged by prosecution to be washed for its re-use. As such when it is the case of prosecution that genuine stamps are put to its re-use after they are washed, it is for the FSL to apply necessary tests to determine fact of washing the stamps. Learned trial Court in this situation appears to have held that there is no rule in such eventualities to not to get the documents concerned certified from FSL but to be sent to Indian Security Press alone.

7 Having considering facts of the case as aforesaid, and in particular, as it is no case of prosecution that duplicate or bogus Court fee stamps were printed and having considering the fact that applicants were on bail pending trial, substantive sentences imposed upon applicants as aforesaid, is liable to be suspended as the same can termed to be short sentence, and applicants can be released on bail, on imposing conditions as per order below.

ORDER

Applicants are released on bail on their furnishing P.R. Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount.

Applicants to deposit amount of fine forthwith before the same Court if same is not yet deposited failing which this order shall cease to be operative.

On being released on bail, applicants shall mark their presence with Dadar Police Station once in three months on first day of each month and shall produce proof of their residential address. In the event of change of address in future, applicants shall update the same with the Investigating Officer.

Applications stands disposed off as allowed.

(PN. DESHMUKH, J)