

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

**CRIMINAL APPLICATION NO.449 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.445 OF 2016
WITH
CRIMINAL APPLICATION NO.450 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.445 OF 2016**

Somnath @ Ramdas Sharma ... **Applicant**
V/s.
The State of Maharashtra & Anr. ... **Respondents**

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Mr.Viral Rathod i/b. Mr.N.K.Sharma, Advocate for the Applicant.
Mrs.R.V.Newton, APP for the Respondent/State.
Applicant Somnath @ Ramdas Sharma is present in person.

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CORAM : P. N. DESHMUKH J.

DATED : 19th AUGUST 2016.

P.C.

1 Learned counsel for the applicant, at the outset, seeks leave to amend the application No.449 of 2016 to bring on record fact of applicant surrendering before this Court, contending that applicant since was not aware of the date of pronouncement of judgment by the Sessions Court on 07/07/2016, was not present before said Court.

2 Leave, as prayed, is allowed. Amendment to above effect be carried out forthwith.

3 Heard learned counsel for both the sides.

4 These are the applications for suspension of substantive sentences imposed upon the applicant by the learned trial Court for the offence punishable under Section 504 of the Indian Penal Code, wherein he has sentenced to undergo simple imprisonment for six months and for the offence punishable under Section 326 of the Indian Penal Code, he is sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.50,000/- in default to suffer simple imprisonment for four months.

5 It is the case of applicant that there are cross cases. Applicant is involved in a case, which came to be registered on the basis of complaint lodged by Prosecution Witness No.1 with reference to alleged assault by applicant and his son, who is juvenile accused on complainant as well as P.W.No.2 Prashant. It is further contended that based on the report lodged by applicant in a cross-case, offence is registered against P.W.No.2 Prashant, which case is stated to be concluded.

6 It is further submitted that there is no sufficient evidence to establish involvement of applicant, and has further submitted that as applicant was on bail pending trial, and as his sentence was also suspended by the learned Sessions Judge pending trial before said forum, and as applicant has deposited fine amount, applicant's application be allowed.

7 Learned Additional Public Prosecutor opposed the application contending that there is direct evidence which is found to be corroborated by the medical evidence.

8 Considering the fact that counter cases are registered, and having considering that applicant was on bail pending trial, and that his sentence was suspended by Sessions Court pending trial, application is liable to be allowed, as there is no case of prosecution that applicant, while on bail, misused the liberty. Even otherwise, the maximum sentence imposed upon applicant is of three years for the offence punishable under Section 326 of the Indian Penal Code.

9 In that view of the matter, and since there is no likelihood of appeal to be heard in near future, conviction and substantive sentences imposed upon the applicant stand suspended by granting bail to applicant as per order below :

- (i) Applicant shall be released on bail on his executing personal bond in the sum of Rs.20,000/- with one surety in the like amount.
- (ii) Applicant shall mark his presence with the Oshiwara Police Station once in three months on first day of such month until further order.
- (iii) Applicant shall place on record his photo identity card with the Registry of this Court within one week from today, failing

which above order stands cancelled without further reference to this Court.

(P. N. DESHMUKH J.)