

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.456 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.449 OF 2016
WITH
CRIMINAL REVISION APPLICATION NO.449 OF 2016

Anthony Louis Benjamin .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr.Vivek Salunke i/b Prashant Badole, Advocate for the applicant.

Mr.A.S.Shitole, APP for the Respondent State.

Mr.Anthony Louis Benjamin, Applicant in person present.

CORAM : PN. DESHMUKH, J

DATED : 19th AUGUST 2016

P.C. :

1 At the outset, learned counsel for the applicant seeks leave to amend the application to incorporate therein fact with reference to applicant's inability to attend the Court of learned Sessions Judge on the date of pronouncement of judgment and to the effect that issuance of conviction warrants against applicant by the learned Sessions Judge. Amendment be carried out forthwith.

2 Heard learned counsel for both the sides.

3 This is an application for suspension of conviction and sentence and for grant of bail by the accused applicant who is convicted by the learned Court of Metropolitan Magistrate, Mazgaon for the offence u/s.297 IPC sentencing him to suffer SI for six months and to pay fine of Rs.1,000/- in default to suffer SI for one month, for offence u/s.337 IPC to suffer SI for six months and to pay fine of Rs.500/- in default to suffer SI for 15 days, for the offence u/s.304A IPC to suffer SI for two years and to pay fine of Rs.50,000/- in default to suffer SI for six months, and for offence u/s.427 IPC to suffer SI for three months and to pay fine of Rs.10,000/- in default to suffer SI for a period of three months. All the substantive sentences are directed to run concurrently.

4 Perused the record and proceedings filed with the application.

5 The Appeal preferred by applicant against above judgment and order passed by the learned Metropolitan Magistrate came to be dismissed on 18th July 2016. Learned counsel for the applicant has fairly stated that applicant is in Government service employed with Western Railways as “Tower Wagon Driver” and during the trial, was on bail.

6 It is submitted that applicant, however, could not remain present before the learned Sessions Court when the judgment came to be pronounced on 18th July 2016 and conviction warrants, as such, came to be issued against the applicant. It is further contended that conviction warrants however, could not be

executed, and applicant is present before this Court. It is therefore, prayed that since applicant is present, the warrants issued be cancelled that applicant be released on bail.

7 Considering the fact that applicant is imposed with short sentence, and further considering that applicant was on bail, pending trial, and since it is no case of prosecution that while on bail, applicant has misused liberty granted to him, application is liable to be allowed.

8 Moreover, applicant since is present before this Court, conviction warrants issued against the applicant stands cancelled as per order below.

ORDER

Conviction warrants issued against applicant on dated 18th July 2016 by the learned Addl. Sessions Judge, Greater Mumbai, stands cancelled. Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.20,000/- with one surety in like amount.

Applicant, while on bail, shall not indulge in any criminal case.

Applicant is directed to place on record his photo identity card.

Application is disposed off accordingly.

(PN. DESHMUKH, J)