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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1209 OF 2016
(FOR BAIL AND SUSPENSION OF SENTENCE)
IN
CRIMINAL APPEAL NO.596 OF 2016**

1. Mandar Krishnadev Kadam	
2. Sanket Narayan Pawar	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr.Kedar J. Patil, for the Applicants.

Ms.V.S.Mhaispurkar, A.P.P for the Respondent-State

***CORAM : REVATI MOHITE DERE, J.
DATE : 14th DECEMBER, 2016***

P.C. :

1. Heard learned Counsel for the applicants and learned A.P.P

2. The applicants, vide Judgment and Order dated 23rd August, 2016, passed by learned Additional Sessions Judge, Karad, have been convicted and sentenced as under:-
 - for the offence punishable under Section 120B of the Indian

Penal Code to suffer R.I for 7 years and to pay fine of Rs.2,000/- each in default to suffer R.I. for 5 months each;

- for the offence punishable under Sections 143 of the Indian Penal Code to suffer R.I for 5 months and to pay fine of Rs.500/- each in default to suffer R.I. for 1 month each.

3. The applicants are original accused nos.7 and 9 respectively. Learned Counsel for the applicants states that the learned Additional Sessions Judge has not only disbelieved the ocular evidence of PW.5, PW.7 and PW.20 but has also not placed reliance on the identification parade held by Naib Tahshildar (PW.25). He submitted that the injured witness who has sustained injuries has also turned hostile. According to the learned counsel there is only a recovery of a motorcycle and a Maruti car, which were allegedly used in the commission of the offence as against the applicants. He submits that there is nothing in the entire evidence to show that the said motorcycle or car were used in the commission of the offence. He submitted that the applicants have been in custody for almost 3 years and 3 months and have undergone 50% of the sentence awarded to them. He submitted that considering the evidence on record, the applicants have a

good case on merits and as such prays that the applicants be enlarged on bail, pending the hearing and final disposal of their appeal.

4. Learned APP on being questioned, states that there are no antecedents, qua the present applicants.

5. Perused the papers. It appears that the learned Additional Sessions Judge has disbelieved the ocular evidence of PW.5, PW.7 and PW.20 and has also dis-believed the identification parade held by Naib Tahshildar (PW.25). It also appears that the injured witness, who has sustained fire arm injuries, has turned hostile. The applicants have been in custody for almost 3 years and 3 months and have undergone 50% of the sentence awarded to them. Since the appeal is of the year 2016, the same is not likely to come up for the hearing in the immediate near future.

6. Considering the aforesaid, the application is allowed and the applicants are enlarged on bail, pending the hearing and final disposal of their Appeal, on the following terms and conditions :

ORDER

- (i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall attend the trial Court on the first Monday of every alternate month between 11:00 a.m. to 12:00 noon commencing from January, 2017, pending the hearing and final disposal of their Appeal;
- (iii) The applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court and to the concerned Police Station, in writing.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.