

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1494 OF 2013

IN

CRIMINAL APPEAL NO.305 OF 2013

JAMSHEDALI SAFIUDDIN SHAIKH

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

WITH

CRIMINAL APPEAL NO.42 OF 2013

WITH

CRIMINAL APPEAL NO.72 OF 2013

WITH

CRIMINAL APPEAL NO.100 OF 2015

WITH

CRIMINAL APPEAL NO.79 OF 2015

WITH

CRIMINAL APPEAL NO.233 OF 2013

WITH

CRIMINAL APPEAL NO.1353 OF 2012

Ms.Naima Shaikh, Appointed Advocate for the Applicant in Criminal Application No.1494 of 2013 in Criminal Appeal No.305 of 2013.

Ms.Parijata Bhardwaj i/b. Shri Yug Chaudhary, Advocate for the Appellants in Criminal Appeal Nos.42 of 2013, 100 of 2015 and 72 of 2013.

Shri A.R.Patil, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 17th MARCH 2016.

P.C. :

1 The appeal filed by the applicant challenging his conviction and sentences imposed upon him, has already been admitted. By this application sent from prison, the applicant prays that, pending the hearing and final disposal of the appeal, the substantive sentences imposed upon him be suspended, and that, he be released on bail.

2 Heard Ms.Naima Shaikh, the learned advocate, appointed under the Free Legal Aid Scheme, to prosecute the application. Heard Shri A.R.Patil, the learned APP for the State.

3 Admittedly, the applicant has not been identified as one of the culprits by any of the witnesses. Rather, that he was seen by any witness, is not the case of the prosecution. The

learned APP submits that the case of the prosecution is that the applicant was in the vicinity, at the time, when the dacoity took place. The applicant is connected with the alleged offences on the basis that, pursuant to the information disclosed by him, part of the robbed property was recovered in the course of investigation.

4 The learned counsel for the applicant submitted that the identity of the property, recovered allegedly at the instance of the applicant, as forming part of the robbed property, was not satisfactorily established.

5 The learned counsel for the applicant submitted that the applicant is in custody since 9th July 2011, i.e., for a period of more than 4½ years. Though the applicant has been sentenced to various terms of imprisonment, the sentences have been made to run concurrently, and as such, the applicant is required to undergo a sentence of Rigorous Imprisonment of 7 years. Except this conviction, the applicant has no past criminal record.

6 Since, in the ordinary course, it may not be possible to take up the appeal for final hearing forthwith, I am inclined to suspend the substantive sentences imposed upon the applicant, subject to certain conditions.

7 Pending the hearing and final disposal of the appeal, the substantive sentences imposed upon the applicant shall remain suspended; and the applicant shall be released on bail in the sum of Rs.20,000/- with 1 surety in like amount, on the condition that, he shall report to the trial court on the first Monday of every calendar month till the disposal of the appeal.

 Should the trial court be closed on any given Monday, the applicant shall report to the trial court on the next working day.

8 The application is disposed of in the aforesaid terms.

(ABHAY M. THIPSAY, J.)