

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

CRIMINAL REVISION APPLICATION NO. 56 OF 2017

Anil S/o Umaji Sadmake .. Appellant

Versus

The State of Maharashtra .. Respondent

.....
Mr R. R. Karpe, Advocate for the appellant
Mr B. A. Shinde, APP for respondent/State
.....

ALONG WITH

CRIMINAL APPLICATION NO. 1045 OF 2017
IN
CRIMINAL REVISION APPLICATION NO. 56 OF 2017

Anil S/o Umaji Sadmake .. Appellant

Versus

The State of Maharashtra .. Respondent

.....
Mr R. R. Karpe, Advocate for the appellant
Mr B. A. Shinde, APP for respondent/State
.....

**CORAM : VL. ACHLIYA, J.
DATED : 27.02.2017.**

PER COURT :

1. Heard learned counsel for the applicant and APP for the State. The applicant-accused along with two other accused were tried for committing offence u/s 393 r/w 34 of the Indian Penal Code with an allegations that, on the day of the incident the applicant along with co-accused pushed the complainant from behind and made to fall down on the ground and started assaulting with first & kick blows and attempted to snatch the mobile and cash amount. The accused Nos. 2 and 3 in the case succeeded to escape from the spot. The accused No. 1 alleged to be caught on the spot and detained & later on taken to Police Station. Subsequent thereto, the other two accused were arrested and they were charge-sheeted for the offence punishable under Section 393 of the IPC. On conclusion of the trial, the trial Court has convicted the applicant/accused No. 1 and acquitted the accused Nos. 2 and 3. Being aggrieved and dissatisfied with the impugned Judgment & Order, the appellant No. 1 had preferred appeal before the Sessions Court. The Sessions Court has rejected the appeal and confirmed the Judgment & Order passed by the trial Court.

2. Learned counsel for the applicant submits that, even though there are concurrent findings on facts, the question pose for consideration is whether the conviction of appellant u/s 393 of Code of Criminal Procedure is sustainable in view of the acquittal of accused Nos. 2 and 3. He submits that, there is no evidence on record indicating which of the accused amongst the three accused attempted to take away the cash and mobile from the pocket of trouser of the complainant.

3. On appreciating the submissions advanced, I am of the view that the arguable case has been made out to entertain the revision application. Hence, the following order.

ORDER

(I) **Rule.**

(II) Call R&P with paper book.

(III) Pending disposal of revision application, the substantive sentence stands suspended. The applicant be released on bail o his furnishing bail in the sum of Rs. 25,000/- (Rupees

Twenty Five Thousand) with one surety in the like amount, on the following conditions.

- (i) Pending disposal of the revision application, the applicant shall attend Shrirampur City Police Station, Dist. Ahmednagar, once in every three months.
- (ii) The applicant shall not indulge into any offence of similar nature during the pendency of the revision petition.
- (iii) The applicant shall furnish the names of his three close relatives with their addresses and phone numbers.
- (iv) In the event of breach of any of the conditions of bail, the bail granted to the applicant will be liable to be cancelled.

(IV) Bail be furnished in the trial Court.

(V) Authenticated copy be issued to applicant.

. Stand over to 15.03.2017.

[V. L. ACHLIYA]
JUDGE