

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.285 OF 2017
IN
CRIMINAL APPEAL NO.152 OF 2017**

Maruti H. Sontakke and Ors.)...Applicants

**V/s.
State Of Maharashtra & Anr.)...Respondents**

Mr. G.S.Jadhav, Advocate for the Applicants.

Mr. S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 2nd MARCH, 2017.

P.C. :

This is an application for suspension of sentence and releasing the Applicants-Accused on bail during the pendency of the appeal filed by them. The Applicants-Accused are convicted of the offence punishable under Section 201 read with Section 34 of IPC and they are sentenced to suffer RI for a period of five years apart from payment of fine of Rs.1,000/-

2 Heard learned Advocate appearing for the Applicants-Accused. By placing reliance on the judgment of the Hanuman

and Others v. State of Rajasthan reported in 1994 Supplementary (2) SCC 39, the learned Advocate argued that for convicting an accused for the offence punishable under Section 201 of IPC, it is necessary to record finding regarding imposition of substantive sentence. This requirement in his submission is missing from the evidence of the prosecution as accepted by the learned trial Court.

3 The learned APP opposed the application by contending that the Applicants are rightly convicted.

4 Perusal of the impugned judgment and order shows that offence punishable under Section 302 read with Section 34 of IPC is held as not proved from evidence of the prosecution by the learned trial Court. However, the Applicants-Accused are convicted of the offence punishable under Section 201 read with Section 34 of the IPC for which short sentence is imposed on them. In the wake of this fact situation, the following order:

- (1) Application is allowed.
- (2) Substantive sentence of imprisonment imposed on the Applicants-Accused is suspended and they are directed to be released on bail

during the pendency of the appeal by executing PR Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount by each of them.

(3) Application stands disposed of accordingly.

(A. M. BADAR, J.)