

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 132 OF 2017
and
CRIMINAL APPLICATION NO. 133 OF 2017
IN
CRIMINAL REVISION APPLICATION NO. 132 OF 2017

Omprakash Pyarelal Sonar & Ors. .. Applicant

v/s.

The State of Maharashtra & Ors ..Respondent

Mr. Mateen A.R.Shaikh for the Applicant.
Mr. Prashant Jadhav APP for the Respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 22nd AUGUST, 2017.

P.C.

1. The applicants herein were accused nos.1 to 3 in C.C. No. 3700001/PW/2005 on the file of the Addl. Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai. By these applications the applicants have sought suspension of execution of substantive sentence imposed vide judgment dated 25th April, 2012 and to release them on bail.

2. Heard the learned Counsel for the applicant and the learned APP for the State. Perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

3. The applicants have been convicted vide judgment dated 25th April, 2012 for the offence punishable under Section 387 r/w. 34 of the Indian Penal Code and they have been sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.500/- each in default to undergo simple imprisonment for the period of one month. The appeal filed against the said judgment being Criminal Appeal No. 332 of 2013 has been dismissed by the by the learned Addl. Sessions Judge vide judgment dated 15th February, 2017.

4. The learned Counsel further submits that the applicants have already paid the fine amount. The learned Counsel for the applicant submits that the applicants were taken in custody on 15th February, 2017 and they were under trial prisoners during the pendency of the

case. He submits that the applicant nos.1 and 3 have undergone imprisonment for a period which is little less than one year, whereas the applicant no.2 has undergone imprisonment for a period of almost 21 months.

5. It is to be noted that the applicants are sentenced to undergo short term imprisonment of two years. The appeal is of the year 2017 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases. Hence, rejection of the application will result in the applicants undergoing the sentence of imprisonment even before the appeal is finally heard on merits.

6. Considering the above facts and also considering the nature of the offence, and the evidence in support thereof, in my considered view, this is a fit case for suspending the execution of sentence. Hence, the order:-

- i) The applications are allowed.
- ii) The execution of sentence imposed vide judgment dated 25th

April, 2012 in C.C.No.3700001/PW/2005 is suspended till disposal of the appeal on merits, on the applicants furnishing fresh bail bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) each with one solvent surety in the like amount to the satisfaction of the learned Addl. Chief Metropolitan Magistrate, 37th Esplanade, Mumbai.

iii) The applicants shall furnish their local as well as permanent address, if any, and contact number, to the Investigating Officer as well as in the fresh bail bonds.

(ANUJA PRABHUDESSAI, J.)