

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

**CRIMINAL BAIL APPLICATION NO.327 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.354 OF 2017**

Raju Mariyappa ...Applicant
Versus
State of Maharashtra ...Respondent

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Mr. Prashant Vare i/b Mr. Anil d. Joshi, Advocates for the Applicant.

Mr. P. H. Gaikwad Patil, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st AUGUST, 2017.

P.C.:-

1. By this Application the Applicant has sought suspension of execution of substantive sentence imposed vide judgment and order dated 17.07.2014 in Criminal Case No.412/S/2002 passed by the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade Mumbai.
2. Heard Mr. Vare, the learned Counsel for the Applicant and Mr. Gaikwad, the learned APP for the State. I have perused the records and considered the submissions advanced by the Counsels for the parties.
3. The records reveal that the Applicant was convicted by the Trial Court for the offences under Sections 39(3) (a) & (b) of Wildlife (Protection) Act, 1972 as amended upto 1991 r/w. Section 51(1) of the Wildlife (Protection)

Act. He was sentenced to undergo Rigorous Imprisonment for 3 years and to pay fine of Rs.10,000/-, in default Simple Imprisonment for 2 months.

4. The learned Counsel for the Applicant has submitted that the Applicant has already deposited the fine amount in the Court of Metropolitan Magistrate. The learned Counsel for the Applicant submitted that the Applicant was on bail during the pendency of the Trial.

5. There is nothing on record to indicate that the Applicant had violated the terms and conditions of the bail. It is also to be noted that the sentence of imprisonment is of 3 years. The Revision is of the year 2017. Considering the large pendency of the cases, the Revision is not likely to come up for final hearing in the next couple of years. Hence, rejection of prayer to suspend the execution of substantive sentence will result in the Applicant undergoing the imprisonment even before his Revision is decided 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, the execution of substantive sentence is required to be suspended till the final disposal of the Revisions Application on merits. Hence the following order:

ORDER

- (i) The Criminal Application is allowed;
- (ii) The execution of substantive sentence vide judgment and order dated

17.07.2014 in Criminal Case No.412/S/2002 passed by the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade Mumbai is hereby suspended till the disposal of the Revision Application on merits;

(iii) The Applicant shall furnish bail bonds of Rs.15,000/-(Rs. Fifteen Thousand only) with one surety to the like amount to the satisfaction of the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai;

(iv) The Applicant shall furnish his contact number and permanent as well as local address, if any, and shall intimate change of address, if any, to the Investigating Officer, as well as to the concerned Court;

(ANUJA PRABHUDESSAI, J.)