

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

**CRIMINAL BAIL APPLICATION NO.413 OF 2017
IN
CRIMINAL REVISION APPLICATION NO.439 OF 2017**

Shamir Nisar Lonbal & Ors.	...Applicants
Versus	
State of Maharashtra	...Respondent

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Mr. K. S. Lubana, Advocate for the Applicants.
Mr. Prashant jadhav, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st AUGUST, 2017.

P.C.:-

1. By this Application the Applicants have sought suspension of execution of substantive sentence imposed vide judgment and order dated 05.08.2017 in Criminal Appeal No.64/2007 passed by the learned District Judge - 4 and Additional Sessions Judge, Thane and they may be enlarged on bail pending final disposal of the Application.
2. Heard the learned Counsel for the Applicants and the learned APP for the State. I have perused the records and considered the submissions advanced by the Counsel for the parties.
3. The Applicants herein were accused in Regular Criminal Case No.03/2000 on the file of Judicial Magistrate First Class, Wada, Dist. Thane. The Applicants were convicted by the Trial Court for the offences punishable

under Sections 379 r/w 34 of the Indian Penal Code and Section 42 of the Indian Forest Act. The are sentenced to undergo Rigorous Imprisonment for 1 year and fine of Rs.5000/- each, in default Simple Imprisonment for 1 month. The Applicants are also held guilty for the offence punishable under Section 42 of the Indian Forest Act and sentenced to undergo Rigorous Imprisonment for 1 year and fine of Rs.2000/- each, in default Simple Imprisonment for 1 month.

4. The Applicants had challenged the said conviction and sentence in Criminal Appeal No.4/2007. The Additional Sessions Judge, Thane upheld the conviction and reduced the sentence of imprisonment to 6 months. The learned Judge, Thane, however, increased the fine amount from Rs.7000/- to Rs.20,000/- each and in default to undergo Rigorous Imprisonment for 2 months.

5. The learned Counsel for the Applicants have submitted that the Applicants/Accused have already deposited the fine amount as imposed by the Appellate Court. He has further submitted that the Applicants are in custody since 5.8.2017.

6. The Applicants were on bail during the pendency of the Trial. There is nothing on record to indicate that the Applicants had violated the terms and conditions of the bail. The Revision is of the year 2017. The sentence is of short term imprisonment of 6 months. 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 the Applicants undergoing the imprisonment even before this Revision is decided on merits.

7. Considering the above facts and also considering the nature of the offence and evidence in support thereof, in my considered view the execution of substantive sentenced 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 05.08.2017 in Criminal Appeal No.64/2007 passed by the learned District Judge - 4 and Additional Sessions Judge, Thane is hereby suspended till the disposal of the Revision Application on merits;
- (iii) The Applicants shall furnish bail bonds of Rs.15,000/-(Rs. Fifteen Thousand only) each with one surety to the like amount to the satisfaction of the learned Judicial Magistrate First Class, Wada, Dist. Thane;
- (iv) The Applicants shall furnish their 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.)