

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

**CRIMINAL APPLICATION NO. 425 OF 2017
WITH
CRIMINAL APPLICATION NO. 424 OF 2017
IN
REVISION APPLICATION NO. 447 OF 2017**

Dharmesh Jivanlal Solanki

... Applicant

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. M.A. Shaikh for the Applicant.

Mrs. A.A. Takalkar, APP for the Respondent/State.

Smt. C.M. Bocarro i/b Vivek Sharma for Respondent No.3.

CORAM : A.S.GADKARI, J.

DATE : 21st DECEMBER, 2017

P.C.:

. These are applications for suspension of sentence and for releasing the Applicant on bail respectively.

2 The Applicant along with two other accused persons namely Jayesh Doshi and Hiten Raichura have been convicted under Section 465, 467, 471, 420 read with 34 and 120(B) of Indian Penal Code and sentenced to suffer simple imprisonment for two years by the learned Metropolitan Magistrate, 16th Court, Ballard Pier, Mumbai in C.C. No. 279/PW/2006 by its judgment and order dated 30.10.2013.

3 The Applicant preferred Criminal Appeal No. 134 of 2014 and the first informant Mr. Nimish Shah preferred the Cross Appeal bearing No. 465 of 2014 in the Court of Additional Sessions Judge, Sessions Court, Greater Mumbai. The learned Additional Sessions Judge, by its judgment and order dated 10.07.2017 was pleased to dismiss the Criminal Appeal No. 135 of 2014 preferred by the Applicant, however allowed the Appeal preferred by the first informant Shri. Nimish Shah. The learned Additional Sessions Judge while allowing the Appeal preferred by the first informant has altered the sentence from simple imprisonment to rigorous imprisonment. That Appellate Court has also directed the three accused persons i.e. Jayesh Joshi, Dharmesh Solanki (Applicant) and Hiten Raichura to pay jointly or severally compensation of Rs.10,00,000/- (Rs. Ten Lakhs only) each within a period of three months from the date of passing of said order. The record indicates that the co-accused namely Hiten Raichura has deposited the said amount of Rs.10,00,000/- in the Registry of this Court, however the Applicant has not deposited the said amount till date. Learned Counsel for the Applicant on instructions from the relatives of the Applicant, who are present in the Court submitted that the Applicant will immediately and not later than one week from today deposit the said amount of Rs.10,00,000/- in the Registry of this Court. The said statement is accepted.

4 The maximum sentence imposed upon the Applicant is of two years and in view of the same, I am inclined to release the Applicant on bail subject to the

condition that the Applicant shall comply with clause No.4 of order dated 10.07.2017 passed by the learned Additional Sessions Judge in Criminal Appeal No. 465 of 2014 filed by Shri. Nimish Shah.

Hence, the following order:-

i) The applicant shall be released on bail in CC No. 279/PW/2006 on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

ii) After his release from jail and during the pendency of the present Revision Application, Applicant shall attend the Court of Metropolitan Magistrate, 16th Court, Ballard Pier, Mumbai once in three months i.e. on every first Monday of third month between 11.00 a.m. to 2.00 p.m. and mark his presence.

iii) It is made clear that deposit of amount of Rs.10,00,000/- (Rs. Ten Lakhs only) as has been directed by the Appellate Court shall be condition precedent for releasing the Applicant on bail.

iv) All the concerned to act on an authenticated copy.

(A.S.GADKARI, J.)