

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.410 OF 2017

IN

CRIMINAL APPEAL NO.248 OF 2017

Vishal s/o Ramsing Dikav and anr

..VS..

State of Maharashtra, through PSO, PS Old City, Akola

.....
 Office Notes, Office Memoranda of Coram,
 appearances, Court orders or directions
 and Registrar's orders

Court's or Judge's Order

Shri A.M. Jaltare, Counsel for the applicants.

Shri N.B. Jawade, Addl.P.P. for the non-applicant/State.

CORAM : V.M. DESHPANDE, J.

DATED : JULY 12, 2017.

This is an application for suspension of substantive jail sentence and for grant of bail.

Both applicants are convicted by learned Additional Sessions Judge, Akola on 20.5.2017 in Sessions Trial No.65 of 2014 by which they are convicted for the offence punishable under Section 304 Part-II of the Indian Penal Code and were directed to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.3,000/- and for the offence punishable under Section 323 read with Section 34 of the Indian Penal Code and were directed to suffer rigorous imprisonment for 6 months and to pay a fine of Rs.500.

This appeal is already admitted by this Court on

.....2/-

26.5.2017. The record and proceedings are also received.

Learned counsel for the applicants pointed out that both applicants are arrested in the crime on 29.11.2013 and since then they are in jail. There is no dispute about the said aspect. He has pointed out to me the decision of this Court reported at 2008 II BCR (Crim) 386 to submit that when applicant has already undertaken half of the sentence, is entitled to be released on bail.

The quantum of sentence is for a period of 7 years. It is also an admitted position that the present applicants have already spent more than 3½ years of the jail sentence and a maximum sentence is of 7 years. Looking to the pendency of the criminal appeals, in near future the appeal will not be taken up for its final hearing.

In that view of the matter, I pass the following order:

ORDER

- i) The criminal application is allowed.**
- ii) Substantive jail sentence imposed upon applicants by learned Additional Sessions Judge, Akola in Sessions Trial No.65 of 2014 shall remain suspended during the pendency of present appeal.**
- iii) Applicants shall be released on bail on they executing a P.R. Bond in the sum of Rs.5,000/- with one solvent surety.**
- iv) Applicants are directed that they should report Old City**

Police Station Akola once in two months and preferably on last Sunday in between 3:00 p.m. and 5:00 p.m. for next two years.

v) After expiry of two years, applicants will be at liberty to move an application before this Court for relaxation of condition.

vi) Learned Judge of the Court below, before whom bail bonds are to be executed, to ensure that entire fine amount is deposited.

vii) Applicants to remain personally present before this Court at the time of final hearing.

viii) The criminal application is disposed of.

JUDGE

!! BRW !!

...../-