

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

CRIMINAL APPLICATION NO.1034 OF 2017
IN CRIMINAL APPEAL NO. 431 OF 2017

(Sheikh Mustaq @ Sameer s/o Sheikh Habib vs. The State of Maharashtra)

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

Shri C.R. Thakur, Advocate for applicant/appellant.
Shri S.D. Sirpurkar, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : DECEMBER 21, 2017

This application is filed by original accused no.7, who came to be convicted for the offence punishable under Section 412 of Indian Penal Code and sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs.10,000/-, in default to suffer simple imprisonment for six months, in Sessions Case No.131/2013 by learned Additional Sessions Judge, Wardha vide judgment dated 18/8/2017.

Shri Thakur, learned Counsel for applicant, has submitted that applicant is in Jail from the date of his arrest, i.e. 10/4/2013 and as such, has undergone imprisonment for more than four years five months. It is contended that other co-accused, who came to be convicted along with applicant are released on bail on suspension of their sentence by this Court and it is also noted while allowing their application by this Court that no reasons are given by trial Court while imposing

different sentences ranging from three years to seven years to accused though they are prima facie found similarly placed.

Shri Sirpurkar, learned Additional Public Prosecutor for respondent, has opposed the application contending that role attributed to applicant is different than other co-accused, who are convicted for lesser period.

On perusal of paras 7 and 8 of the operative part of the impugned judgment, which are also considered by this Court while considering Criminal Application No.742/2017 in Criminal Appeal No.430/2017 of co-accused Rehaan Baig s/o Akram Baig, it is noted that no reasons are assigned by trial Court while differentiating quantum of sentence between present applicant and co-accused persons, who are referred in clause (8) of the operative part of the judgment, who are convicted for offence punishable under Section 412 of Indian Penal Code and are sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/- each.

Taking into consideration nature of accusations against applicant and that he has undergone period of about four and half years as against conviction of seven years imposed upon him, application is liable to be allowed.

The substantive sentence of imprisonment imposed upon applicant/original accused no.7 stands suspended during pendency of appeal. Applicant shall be released on bail on his executing a P.R. Bond in the

sum of Rs.25,000/- with one solvent surety in the like amount to the satisfaction of trial Court.

The application is disposed of as allowed.

To be heard along with Criminal Appeal Nos.404/2017, 412/2017, 428/2017, 430/2017 and 431/2017.

JUDGE

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