

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.2 OF 2018
IN
REVISION APPLICATION NO.414 OF 2017
WITH
CRIMINAL REVISION NO.405 OF 2017
WITH
CRIMINAL REVISION NO.610 OF 2017

Hiten Haridas Raichura

...Applicant.

vs.

The State of Maharashtra and anr.

...Respondent.

Mr. A.H. Ponda i/by S.M.Kalyankar for the Applicant.

Smt. Rutuja Ambekar, APP for the State.

Smt. C. Bocaroo for the Intervener.

CORAM : A.S.GADKARI, J.

DATE : 09th February, 2018

P.C.

1. This is an application for suspension of sentence and releasing the applicant on bail in Revision Application No.414 of 2017.
2. Heard the learned counsel for the applicant, learned counsel for the complainant and the learned APP. Perused the record.
3. The applicant is accused No.3 in CC No.279/PW/2006. By a Judgment and order dated 31.10.2013 the learned Metropolitan Magistrate, 16th Court, Ballard Pier, Mumbai was pleased to convict the applicant under Sections-465, 467,471, 420, 201 read with 34 of the Indian Penal Code and under Section- 120B of the Indian Penal Code. The

maximum sentence imposed upon the applicant is of two years of rigorous imprisonment with total fine of Rs.5500/-,

4. In an appeal preferred by the State of Maharashtra bearing Criminal Appeal No.855/2015, the Appellate Court while maintaining the conviction and sentence, enhanced the compensation to be paid by the accused persons to the first informant to Rs.10,00,000/- each by its Judgment and Order dated 10.7.2017.

The applicant has preferred the present revision application against the said Judgment and Order dated 10.7.2017. The present revision has been admitted by an Order dated 18.12.2017.

5. The record further indicates that, during the pendency of the present Revision Application the applicant earlier filed applications bearing Criminal Application Nos.388 of 2017 and 389 of 2017 for suspension of sentence and for bail which were turned down by the Co-ordinate Bench (Shri. A.M. Badar, J.) by an Order dated 16.11.2017 for the reasons stated therein. The subsequent application bearing Criminal Application No.592/2017 preferred by the applicant was also turned down by this Court by an Order dated 21.12.2017 predominantly on the ground that the applicant did not surrender before the concerned Court immediately and at his own whims and fancies surrendered before the Trial Court on 15.12.2017 and after taking into consideration the conduct of the applicant subsequent to the passing of the Judgment and

Order by the Appellate Court the said application was rejected at that stage.

6. The learned counsel appearing for the first informant vehemently opposed the present application and submitted that it took about 20 years for the first informant to secure the conviction of Applicant and as of today the applicant has hardly undergone sentence of two months out of two years of maximum imprisonment and therefore, the applicant may not be released on bail. She further submitted that, the other co-accused have not been released on bail till today and therefore, the application of the applicant may be rejected.

7. The record indicates that the other accused persons have not deposited the compensation amount imposed upon them and that is the only ground for not releasing the other accused on bail till today. The record further indicates that the applicant has deposited his component of compensation in the registry of this Court in pursuance of the Order passed by the Appellate Court. That, the applicant has already undergone two months of imprisonment out of the total sentence of two years.

8. In view of the above, this Court is of the view that the applicant can be released on bail in Revision Application No.414/2017.

Hence, the following order.

a) The applicant be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

- b) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- c) After his release from Jail, during the pendency of this revision application the applicant shall attend the Trial Court on every first Monday of the month and mark his presence.
- d) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)