

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3 OF 2018

IN

CRIMINAL APPEAL NO.2 OF 2018

Abdul Latif Mohd. Khalil Khan @ Sultan ... **Applicant**
V/s.

The State of Maharashtra & Anr. ... **Respondents**

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Mr.A.A.Siddiquie i/b. A.A.Siddiquie & Associates, Advocate for the Applicant.

Mr.Prashant Jadhav, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 16th JANUARY 2018.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him.

2 The applicant/accused is acquitted of offences punishable under Sections 399 and 402 read with Section 34 of the Indian Penal Code, but he is convicted of the offence punishable under Section 25(1)(1A) of the Arms Act, 1959. He

has been sentenced to suffer rigorous imprisonment for five years apart from imposition of fine of Rs.3,000/- and in default of payment of fine, he is directed to suffer three months simple imprisonment.

3 Heard the learned Advocate appearing for the applicant/accused. He argued that there is discrepancy regarding panchanama of seizure of the country-made handgun. The witnesses are stating that the same was prepared by writing with ball pen, but the panchanama shows that it is typed and printed on the computer. The learned Advocate further argued that the witnesses for the prosecution were unable to point out from where the electricity supply was taken on the spot for preparation of the panchanama. The panchanama was prepared in the night hours. Therefore, the applicant is entitled for bail.

4 The learned Additional Public Prosecutor opposed the application by contending that evidence of the prosecution is cogent and trustworthy.

5 I have carefully considered the rival submissions and also perused the copies of depositions of witnesses as well as the impugned Judgment and Order.

6 Allegations against the applicant as well as five other

co-accused were to the effect that along with absconding accused, they had assembled at Sector No.6 at Kandiwali (West), Mumbai by making preparation and by possessing deadly weapon for committing dacoity. All accused persons are acquitted of offences punishable under Sections 399 and 402 read with Section 34 of the Indian Penal Code by the learned trial Court. However, the present application is convicted of the offence punishable under Section 25(1)(1A) of the Arms Act. The learned trial Court found that it is proved by the prosecution that he was in possession of a country-made handgun.

7 The applicant/accused is behind bars from 07/11/2015. Short sentence of imprisonment of five years is imposed on him, out of which he must have undergone at least half of the sentence including remission. The appeal filed by him may not be heard within a short period of two and half years. In this view of the mater, the applicant is entitled to be released on bail. Hence, the Order :

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P.R.Bond of Rs.15,000/- and on furnishing surety in the like amount.

- (iii) As a condition of this Order, the applicant/accused should attend the concerned Police Station once in a month i.e. on first Sunday of each month from 11.00 a.m. to 1.00 p.m. till disposal of the appeal.

(A.M.BADAR J.)