

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

**CRIMINAL APPLICATION NO.34 OF 2018
IN
CRI. REVISION APPLICATION NO.45 OF 2018**

Rajendra Bhiku Pawar	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

.....

Mr.Mohan N. Devkule i/b. Mr.Rakesh R. Bhatkar, Advocate for the Applicant.
Mr.M.G. Patil, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 18, 2018.

P.C. :

The applicant has been convicted for an offence punishable under Section 85(1)(2) of the Bombay Prohibition Act, 1949, vide judgment and order dated 2nd September, 2016 and he has been sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs.5,000/- and in default of payment of fine, the applicant has to further undergo rigorous imprisonment for three months. The Appeal preferred by the appellant is rejected by the Additional Sessions Judge, Ratnagiri, vide judgment and order dated 29th December, 2017.

2 The main contention of the applicant is that the blood sample of the applicant – accused was forwarded belatedly for the analysis after a period of about one month. In accordance with the Rules under the said Act, blood sample is required to be forwarded within seven days. Learned APP submitted that there is concurrent finding and no case for interference is made out. It is submitted that the blood sample was taken on the same day i.e. on the day of incident and it was preserved by using preservatives.

3 Considering the above aspects, the case for suspension of sentence is made out. Hence, this application is required to be allowed.

4 Hence, I pass the following order:

:: ORDER ::

- (i) Pending the hearing and final disposal of this application, the sentence of imprisonment awarded by the Court of learned Judicial Magistrate First Class, Rajapur, vide judgment

and order dated 2nd September, 2016, passed in Summary Criminal Case No.13 of 2014, which is confirmed by the Sessions Court vide judgment and order dated 29th December, 2017, is suspended and the applicant is directed to be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;

- (ii) Criminal Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)