

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.84 OF 2018
IN
CRIMINAL APPEAL NO.40 OF 2018**

Aasif Kalim Khan ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

.....
Mr.Mohan N. Devkule i/b. Mr.Rakesh Bhatkar, Advocate for the
Applicant.

Mr.A.R.Kapadnis, APP for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 8th FEBRUARY 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 convicted of the offence punishable under Section 212 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for three years apart from direction to pay fine of Rs.1000/- and in default to undergo further simple imprisonment for six months.

3 Heard the learned Advocate appearing for the applicant/accused. He argued that the offence punishable under Section 212 of the IPC is bailable and, therefore, the applicant is entitled for bail. The learned Advocate further argued that the applicant was not even aware about the fact of commission of offence by the co-accused and, therefore, he cannot be convicted for the offence of harbouring the offender. It is further argued that short sentence of imprisonment imposed on the applicant/accused and, therefore, he is entitled for suspension of sentence.

4 The learned Additional Public Prosecutor opposed the application by contending that the offence alleged is proved against the applicant/accused.

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

6 The applicant/accused is convicted for the offence punishable under Section 212 read with Section 34 of the IPC by holding that the applicant/accused has intentionally purchased a pistol from the accused No.1 in order to conceal the offence of commission of murder. Short sentence for three years is awarded to the applicant/accused and the same has already been

suspended by the learned trial Court. The offence proved against the applicant is bailable offence. In this view of the matter, as the appeal is not likely to be heard and decided within a period of three years, the applicant is entitled for release on bail. As such, 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 in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- (iii) The application is disposed of accordingly.

(A.M.BADAR J.)