

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

**CRIMINAL APPLICATION NO.88 OF 2018
IN
CRI. REVISION APPLICATION NO.94 OF 2018**

Subhash Narayan Kadam	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

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Mr.Kuldeep U. Nikam, Advocate for the Applicants.
Mr.Swapnil S. pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 14, 2018.

P.C. :

This is an application for suspension of sentence and grant of bail.

2 Applicant was prosecuted for the offence punishable under Sections 454, 380 and 182 read with Section 24 of the Indian Penal Code (IPC). He was tried with two other accused. Applicant was arrayed as accused no.2. Learned Judicial Magistrate First Class, Miraj, vide judgment and order dated 27th July, 2011, convicted the applicant and accused no.3 for the offences punishable under Section 454 and 380 of IPC. Applicant

was sentenced to suffer rigorous imprisonment of one year and to pay fine of Rs.2,000/- and for the offences punishable under Section 454 of IPC and he was sentenced to suffer rigorous imprisonment of one year and to pay fine of Rs.3,000/-, for the offence punishable under Section 380 of the IPC and in default of payment of fine, applicant-accused shall suffer simple imprisonment for one month on each count. Applicant and the co-accused preferred an Appeal before the Sessions Court. The conviction of accused no.3 was set aside and the order of the conviction of the applicant was confirmed.

3 Accused no.1 who was the first informant and were subsequently arrayed as accused no.1 on account of his involvement in the crime, was acquitted by the trial Court. The trial Court submits that there is no eye witness to the incident. The pancha witnesses had turned hostile. Only distinguishing features between the applicant and accused no.3 is that the applicant had allegedly disclosed the fact that the property was kept at particular place. The master mind has been acquitted by the trial Court and the accused no.3, who was similarly placed has been acquitted by the Sessions Court. Learned APP submitted that as a concurrent finding of two courts and the evidence has

been appreciated by both Court. Considering the factual aspects involved in the matter, as stated herein, the case for suspension of sentence and grant of bail is made out.

3 Hence, I pass the following order:

:: ORDER ::

(i) Pending Revision Application No.432 of 2017, the sentence of imprisonment awarded by the Court of J.M.F.C., Miraj vide judgment and order dated 27th July, 2011, passed in R.C.C.No.213 of 2002, which is confirmed by learned Additional Sessions Judge, Sangli, vide judgment and order dated 5th February, 2018, passed in Criminal Appeal No.299 of 2011, is suspended and the applicant is directed to be released on bail during the pendency of Revision Application No.94 of 2018, on furnishing P.R.Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;

(i) Criminal Application stands disposed of.

(PRAKASH D. NAIK, J.)