

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.219 OF 2017

IN

CRIMINAL APPEAL NO.113 OF 2017

SHEKHAR BABASAHEB SHINDE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Prataprao J. Shinde, Advocate for the Applicant.

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

CORAM : A. M. BADAR, J.

DATE : 6th 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, which is already admitted for final hearing.

2 Heard the learned advocate appearing for the applicant/original accused no.2. This court on 2nd May 2017 (Coram : Dr.Shalini Phansalkar-Joshi, J.) has observed that the

applicant/original accused no.2 has not yet surrendered before the learned trial court, despite issuance of non-bailable warrant against him, and therefore, the instant bail application cannot be considered.

3 Today also, the learned advocate for the applicant/original accused no.2 has fairly stated that despite his efforts, he could not get instructions regarding surrender of the applicant/original accused no.2.

4 The record and proceedings are also called by this court. It is seen that the applicant/accused no.2 is convicted of the offence punishable under Section 307 read with 34 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for 10 years apart from directing him to pay fine of Rs.10,000/-, and in default, to undergo further simple imprisonment for 6 months. Perusal of the record and proceedings and more particularly the order sheets reveals that on 16th January 2017 as well as on 23rd January 2017, the

applicant/original accused no.2 was absent. The learned trial court then issued non-bailable warrant against the applicant/original accused no.2. The record and proceedings of the learned trial court does not show that either the non-bailable warrant issued against the applicant/original accused no.2 is executed or that the applicant/original accused no.2 has surrendered himself before the learned trial court for undergoing jail sentence imposed on him.

5 In this view of the matter, in pursuant to the order dated 2nd May 2017 passed by this court (Coram : Dr.Shalini Phansalkar-Joshi, J.), the instant application of the applicant/original accused no.2, who is absconding even after his conviction and resultant sentence, does not deserve consideration.

6 The application is, therefore, rejected.

(A. M. BADAR, J.)