

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.431 OF 2018

IN

CRIMINAL APPEAL NO.285 OF 2017

Pravin Kashinath Pagare ... **Applicant**

V/s.

The State of Maharashtra ... **Respondents**

.....

Mr.Rajendra B. Mokashi, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 16th APRIL 2018.

P.C. :

1 This is an application by appellant/accused No.1 for suspension of sentence and releasing him on bail during pendency of the appeal filed by him along with co-accused.

2 The applicant was convicted of offences punishable under Section 397, 506 Part II and 341 read with Section 34 of the Indian Penal Code and he came to be sentenced to suffer rigorous imprisonment for seven years for the offence punishable under Section 397 of the IPC. Lessor sentences are imposed on other counts and all substantive sentences are directed to run concurrently.

3 Heard the learned Advocate for the applicant/accused. He drew my attention to the Orders dated 20/11/2017 and 22/01/2018 passed in Criminal Application no.1021 of 2017 (Coram : Smt.Anuja Prabhudessai, J.) and the Order on Criminal Application No.1620/2017 respectively by this Court and contended that the applicant is an accused having similarly situated in the facts and circumstances of the case and, therefore, on the principle of parity, he is entitled for bail.

4 The learned Additional Public Prosecutor opposed the application by contending that the application is a habitual offender. In past, Crime No.61 of 2011 was registered against him for offences punishable under Sections 143, 147, 148, 149, 341, 326, 427 of the IPC.

5 I have carefully considered the rival submissions and also perused copies of depositions of prosecution witnesses.

6 Perusal of evidence of P.W.No.1 Bhagwan Sonar, who is alleged victim of the crime in question, shows that negative role is attributed to the present applicant in as much as he has extinguished the fire from the matchstick ignited by the co-accused. Apart from this negative role, nothing has been stated by the prosecution witnesses against the present applicant.

7 In this view of the matter and even on the principle of parity, the applicant deserves to be released on bail. Therefore, the

Order :

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant is suspended and he is directed to be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (iii) The applicant shall furnish his permanent as well as temporary address, if any, and his contact number and shall intimate change of address and contract number, if any, to the Investigating Officer, as well as to the concerned Court.
- (iv) The applicant shall be released from jail provided he is not in custody in any other crime or case.
- (v) As a condition of this Order, the applicant should not indulge in commission of any crime in future.
- (vi) The application is disposed of accordingly.

(A.M.BADAR J.)