

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1044 OF 2018

IN

CRIMINAL APPEAL NO.956 OF 2018

Nilesh William Jatanna @ Annu

...Applicant

V/s.

The State of Maharashtra

...Respondent

.....

Mr. Abhaykumar Apte, Appointed Advocate for the Applicant.

Mr. S.V. Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR, J.

DATED : 23rd OCTOBER 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 learned Counsel for the applicant/accused pointed out that the Order dated 16th March 2018 passed in Criminal Application No.1115 of 2017 filed by accused No.1 Riyaz Ahmad

Hussain Shaikh @ Bhaiji and argued that co-ordinate Bench (Coram : Shri. A.S. Gadkari, J) is pleased to release the main accused on bail on the ground that he has undergone more than 60% of the sentence. The learned Counsel submits that the applicant/accused being accused No.2 in the said crime is also entitled for the same treatment.

3. The learned APP has not disputed the fact that the co-ordinate Bench of this Court is pleased to release accused No.1 Riyaz Ahmad Hussain Shaikh @ Bhaiji on bail on the ground that he has undergone 60% of the sentence as on today. However, according to the learned APP, the applicant/accused is also convicted for the offence punishable under Section 307 of the Indian Penal Code in addition to the offences with which accused No.1 Riyaz Ahmad Hussain Shaikh @ Bhaiji is convicted.

4. Accused No.1 Riyaz Ahmad Hussain Shaikh @ Bhaiji was convicted of offence punishable under Section 387 read with Section 120-B of the Indian Penal Code so also under Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999. He was sentenced to suffer maximum rigorous

imprisonment for ten years on each count. The present applicant/accused, apart from conviction of those counts is also convicted for the offence punishable under Section 307 of the Indian Penal Code and all sentences are directed to be undergone concurrently.

5. In this view of the matter, it cannot be said that case of the present applicant/accused is different than that of the main accused Riyaz Ahmad Hussain Shaikh @ Bhaiji, who is already released on bail by the co-ordinate Bench of this Court. Therefore, the order;

- : ORDER : -

(i) The application is allowed.

(ii) During the pendency of the appeal, the substantive sentence imposed upon the applicant/accused is suspended. The applicant/accused be released on bail in MCOC Special Case No.2 of 2012 on his furnishing PR bond of Rs.50,000/- (Rupees Fifty Thousand only) with one or two solvent local sureties in the like amount.

(iii) During the pendency of the appeal, the

applicant/accused shall attend the office of ACB, CID, Unit 3, Mumbai on every first Monday of the month between 11.00 a.m. to 2.00 p.m. and shall mark his presence.

(iv) It is made clear that, any two consecutive defaults in complying with the aforesaid condition by the applicant/accused, would attract the provisions for cancellation of bail.

(A.M.BADAR J.)