

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.386 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.404 OF 2018

Ramesh Chotelal Gudhiya	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Amit D. Joshi for applicant.
Mr.Y.M.Nakhwa, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 9th August 2018

PC :

1. Heard both sides. This application is for suspension of sentence and grant of bail. The applicant is convicted for offence under section 7(1)(a)(ii) read with Section 3(2)(d) of Essential Commodities Act. The applicant was sentenced to suffer simple imprisonment for six months and to pay fine of Rs.1,000/-. The applicant thereafter preferred appeal before the Sessions Court which has been dismissed by judgment and order dated 25th June 2018.

2. Learned counsel for applicant submits that the applicant has been taken into custody on 25th July 2018 and since then he is undergoing the sentence. It is further submitted that the applicant was on bail during trial and also during pendency of appeal. It is submitted that the case of prosecution suffers from serious

infirmities. The applicant was arrested by Police Naik although he has no authority to arrest. The raid was conducted by the Rationing Officer. The confiscation order was passed without issuing notice under section 6(b) of Essential Commodities Act. It is further submitted that the prosecution case is that what was allegedly recovered was blue kerosene, whereas the witness in his deposition has stated that the seized commodity is white kerosene. It is further submitted that the Trial Court has no jurisdiction to conduct the trial in respect to the offences under Essential Commodities Act. Whereas, learned APP submitted that there are concurrent findings of two Courts. He pointed out the reasons assigned by the Trial Court for convicting the applicant. It is also submitted that the seizure panchanama indicates that what was seized is blue kerosene. He further submits that the deposition of the investigating officer also fortifies the said fact.

3. In the light of the nature of evidence against the applicant and considering the fact that he is sentenced to imprisonment for six months and he is in custody from 25th July 2018, case for suspension of sentence and grant of bail is made out.

4. Hence, I pass following order :

ORDER

(i) Pending hearing and final disposal of Criminal Revision Application No.404 of 2018, the sentence of imprisonment awarded by the Court of 10th Joint Civil Judge, Junior Division and Judicial Magistrate, First Class, Thane in RCC No.23 of 2012, which was confirmed by the judgment and order dated 25th July 2018 of

Sessions Court, Thane in Criminal Appeal No.48 of 2013 below Exhibit-12, is suspended and the applicant is directed to be released on bail on furnishing PR bond in sum of Rs.15,000/- with one or more sureties in the like amount;

(b) Criminal Application No.386 of 2018 is disposed of.

(PRAKASH D. NAIK, J.)

MST