

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.407 OF 2018
IN
CRIMINAL REVISION APPLICATION NO.424 OF 2018

Nilesh Krishna Tandel
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The State of Maharashtra

Applicant

Respondent

Mr.Kuldeep Patil with Megha Bajarria for applicant.
Mr.P.H.Gaikwad, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 14th August 2018

PC :

1. This is an application for suspension of sentence and grant of bail. The applicant is convicted for offences u/s 279 and 304A of Indian Penal Code. The applicant is sentenced to suffer rigorous imprisonment for three and five months respectively and to pay fine of Rs.500/- in respect to offence u/s 279 and 304A of IPC. He is also sentenced to suffer simple imprisonment for three months and to pay fine of Rs.500/- for offence punishable u/s 184 of Motor Vehicles Act. He was further ordered to sentence u/s 134(a) of Motor Vehicles Act. The applicant preferred an appeal before the Sessions Court, which was partly allowed by judgment dated 31st July 2018 and the sentence in respect to the offence u/s 279 is set aside. Rest of the sentence was confirmed.

2. The applicant is taken into custody on 31st July 2018 and since then he is undergoing sentence. The advocate for applicant submits

that the applicant was on bail during the trial and during pendency of appeal. He has not misused the liberty of bail during pendency of trial or during pendency of appeal. It is submitted that the judgment and order passed by both the Courts suffer from several infirmities.

3. Learned APP submitted that there is concurrent findings of two Courts. The victim was four and half years old. There is sufficient evidence to convict the applicant. Taking into consideration the submissions advanced by the advocate for applicant and more particularly the sentence imposed by the Court, the application is required to be allowed. Hence, I pass following order :

ORDER

- (i) Criminal Application No.407 of 2018 is allowed;
- (ii) The sentence awarded by the Court of learned Judicial Magistrate, First Class, 3RD Court, Panvel in SCC No.510 of 2005 vide judgment and order dated 17th March 2010, which was modified by the Sessions Court, Raigad, Alibag vide judgment and order dated 31st July 2018 passed in Criminal Appeal No.27 of 2010, is suspended and the applicant is directed to be released on bail on furnishing PR bond in the sum of Rs.15,000/- with one or more sureties in the like amount;
- (iii) Criminal Application No.407 of 2018 is disposed off.

(PRAKASH D. NAIK, J.)

MST