

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.1620 OF 2017
IN
CRIMINAL APPEAL NO.285 OF 2017**

Sonusingh @ Sandy Dhansingh Rajput ... **Applicant**
V/s.

The State of Maharashtra ... **Respondent**

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

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

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CORAM : A.M.BADAR J.

DATED : 22nd JANUARY 2018.

P.C. :

1 This is an application by appellant/accused No.4 for suspension of sentence and releasing him on bail during pendency of the appeal filed by him.

2 The applicant/accused along with four co-accused came to be convicted of offences punishable under Sections 397, 506 and 341 read with Section 34 of the Indian Penal Code and they are sentenced to suffer rigorous imprisonment for seven years apart from directing them to pay fine for the offence punishable under Section 397 of the Indian Penal Code. On other count, lesser sentence of imprisonment is imposed on the applicant as

well as co-accused. All substantive sentences are directed to run concurrently.

3 I heard the learned Advocate appearing for the applicant/accused as well as the learned Additional Public Prosecutor.

4 The learned Advocate appearing for the applicant/accused drew my attention to the Order dated 20th November 2017 passed by the coordinate Bench of this Court (Coram : Smt.Anuja Prabhudesai J.) in Criminal Application No.1021 of 2017 filed by co-accused Avinash Mahale and argued that role of the present applicant is identical to the role attributed to Avinash Mahale and evidence in respect of Avinash Mahale and the present applicant is virtually the same. Hence, the applicant is entitled for same treatment as is given to Avinash Mahale.

5 The learned Additional Public Prosecutor opposed the application by contending that the applicant is convicted for a serious offence.

6 I have carefully considered the rival submissions and also perused copies of depositions of prosecution witnesses including that of alleged victim P.W.No.1 Bhagwan Sonar and eye-witness P.W.No.2 Pravin Bhopale. Evidence adduced by the

prosecution witnesses so far as the present applicant as well as co-accused Avinash Mahale, who has already been released by this Court on bail by order dated 20/11/2017 is concerned, is virtually the same. P.W.No.1 Bhagwan Sonar had neither named co-accused Avinash Mahale, who is released on bail nor he has named the present applicant. The other witness P.W.No.2 Pravin Bhopale has also not either named the applicant or arrested the applicant on the spot. Hence, on the principle of parity, the applicant is entitled to same treatment as is given to co-accused Avinash Mahale. Therefore, the 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) The application is disposed of accordingly.

(A.M.BADAR J.)