

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.722 OF 2016
AND
CRIMINAL APPLICATION NO.723 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.685 OF 2016

1. Jahid Husain Shaikh, Age 34 years,
Occ.Service, R/o.Room No.711, Koliwada Plot,
Near-Shiya Imamwada Masjid, Jogeshwari (E),
Mumbai-400 060.

2. Naeem Ahmad Wasim Siddiqui, Age 36 years,
Occ.Driver, R/o.Mujibur Chawl, Janata Colony,
Idgah Maidan, Near Hotel Amin,
Jogeshwari (E), Mumbai-400 060.

Applicants

versus

The State of Maharashtra

Respondent

Mr.Vishal V. Ingawale for applicants.
Mr.S.S.Pednekar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th February 2018

PC :

1. These two applications are filed by the applicants seeking suspension of sentence and grant of bail pending Revision Application No.685 of 2016.

2. The applicants are convicted by Chief Metropolitan Magistrate, 2nd Court, Mazgaon, Camp at Sewree, Mumbai in CC

Nos.0200489/PW/2007 and 0200276/PW/2015, dated 12th January 2016 for offences under Section 25(1-B)(a) and Section 3 of Indian Arms Act, 1959 and sentenced to suffer rigorous imprisonment for three years each and to pay fine of Rs.10,000/- each. The Criminal Appeal No.148 of 2016 preferred by the applicants has been dismissed by Additional Sessions Judge for Greater Bombay by judgment and order dated 8th December 2016.

3. Learned advocate for the applicants submits that there are discrepancies in the evidence of prosecution. The applicants are in custody for a period of about fifteen months. It is submitted that more than half sentence has already been undergone by the applicants. Learned APP submitted that there is concurrent findings against the applicants.

4. Learned APP submits that there are antecedents against the applicants. The advocate for the applicants submits, on instructions, that the applicants have undergone sentence in connection with CR No.14 of 2000 which was registered under Sections 307, 353, 34 of Indian Penal Code read with Sections 3, 25, 27 of Indian Arms Act and Section 3(1), 3(2) of MCOC Act. The applicant no.2 was acquitted for offence under Sections 302, 392, 395, 34 of Indian Penal Code in CR No.190 of 2000 registered with Vikroli Police Station. Considering the fact that the applicants were prosecuted under Arms Act and they are in custody for about fifteen months, these applications deserve to be allowed on certain conditions.

5. Hence, I pass following order :

ORDER

(i) Pending Criminal Revision Application No.685 of 2016, the sentence of imprisonment imposed by the Court of Additional Chief Metropolitan Magistrate, 2nd Court, Mazgaon (Sewree), Mumbai vide judgment and order dated 12th January 2016 in CC Nos.0200489/PW/2007 and 0200276/PW/2015, which was confirmed in Criminal Appeal No.148 of 2016 by Additional Sessions Judge for Greater Bombay by judgment and order dated 8th December 2016, is suspended and applicants are directed to be released on bail on furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount

(ii) The applicants are directed to report Anti Terrorist Squad, Juhu Division, Mumbai once in a month on every first Saturday between 10 a.m. and 12 p.m. till further orders;

(iii) The prosecution will be at liberty to file an application for cancellation of bail in the event the applicants are found to be involved in any other case during pendency of Revision Application No.685 of 2016;

(iv) Criminal Application No.722 of 2016 and Criminal Application No.723 of 2016 are disposed off.

(PRAKASH D. NAIK, J.)

MST