

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1982 OF 2018

**IN
CRIMINAL APPEAL NO.1475 OF 2018**

Mr. Pravin Lava Shetty Applicant

Vs.

The State of Maharashtra Respondent

Mr. Ravindra Madhukar Sawant for the applicant.

Mr. V.V. Gangurde, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 14th December 2018

P.C.:

1 Heard the respective counsel.

2 This is an application under Section 389 Code of Criminal Procedure. The applicant herein is convicted by the Assistant Sessions Judge, Thane vide judgment and order dated 10th October 2018 in Sessions Case No. 71 of 2013. Accused is convicted for the offences punishable under Sections 498-A of Indian Penal Code and

sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.2,000/-, in default to suffer rigorous imprisonment for one month, for the offence punishable under Section 306 of Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.5,000/-, in default to suffer rigorous imprisonment for three months and that all the sentences shall run concurrently.

3 Learned counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. It is also submitted that the applicant has been sentenced to a short term sentence and that there is no possibility of the appeal being finally heard in the near future.

4 In view of the judgment of the Hon'ble Apex Court in the case of **Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130**, the substantive sentence imposed upon the applicant deserves to be suspended during the pendency of the appeal. In view of above,

taking into consideration that the sentence imposed upon the applicant is a short term sentence, it would be a fit case for suspension of the substantive sentence. However, it is made clear that the suspension of substantive sentence shall not be construed as suspension of conviction. Hence, the following order.

ORDER

- i) The application is allowed and disposed of.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 10th October 2018 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.30,000/- with one or more solvent sureties in the like amount.
- iv) The applicant shall report to the Court of Assistant Sessions Judge, Thane once in six months on the date assigned by the Sessions Judge.
- v) Upon failure to attend any two consecutive dates, the Sessions Court shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

(*Smt. Sadhana S. Jadhav, J*)