

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.14/2018

Sitabai w/o Ganeshrao Kove

..vs..

State of Mah., thr. PS Karanja (Gh), Tahsil-Karanja, District Wardha

.....
 Office Notes, Office Memoranda of Coram,
 appearances, Court orders or directions
 and Registrar's orders

Court's or Judge's Order

Shri K.J. Topale, Counsel for the applicant.

Shri T.A. Mirza, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 30, 2018.

1. Heard learned counsel Shri K.J. Topale for the applicant and learned Additional Public Prosecutor Shri T.A. Mirza for the State.

2. After hearing learned counsel Shri K.J. Topale for the applicant, re-think to judgments and orders of conviction passed by both the Courts below is necessary. Hence, **RULE.**

3. Call record and proceeding.

4. Learned Additional Public Prosecutor Shri T.A. Mirza waives service on behalf of the State.

Criminal Application (APPR) No.21/2018

1. Heard.

2. Applicant Sitabai w/o Ganeshrao Kove, was convicted by learned Judicial Magistrate First Class at Karanja (Ghadge),

District Wardha for the offence punishable under Section 65(e) of the Bombay Prohibition Act and directed to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.25,000/- and, in default of payment of fine amount, to suffer further simple imprisonment for 1 month. The applicant, thereafter, preferred an appeal before the Lower Appellate Court at Wardha vide Criminal Appeal No.78/2016 and learned Additional Sessions Judge at Wardha in the said appeal on 8.12.2017 passed judgment thereby dismissing the appeal and upholding the judgment and order passed by learned Magistrate. The applicant was taken into custody and since then she is in jail.

3. The applicant was on bail during the pendency of the Trial and also during the pendency of the appeal and at no point of time she has mis-used the liberty granted to the applicant, is the statement made by learned counsel Shri K.J. Topale for the applicant, which is accepted.

4. Today, the Court has admitted the present revision. The punishment imposed upon the applicant is for a fixed duration. In addition to that, the applicant is a lady. Further, there is no chance of the present revision be taken up for its final hearing in near future. In that view of the matter, I pass the following order:

ORDER

(a) The criminal application is allowed.

(b) Substantive jail sentence imposed upon the applicant by learned Judicial Magistrate First Class at Karanja (Ghadge), District Wardha on 19.4.2016 in SCC No.105/2015 and upheld by learned Additional Sessions Judge at Wardha in Criminal Appeal No.78/2016 on 8.12.2017 shall remain suspended during the pendency of the present revision.

(c) Applicant Sitabai w/o Ganeshrao Kove, be released on bail on she executing a P.R. Bond in the sum of Rs.5,000/- with one solvent surety of the like amount.

(d) Bail before the Lower Appellate Court.

(e) Before releasing the applicant on bail, the Lower Appellate Court shall ensure that the entire fine amount is deposited by the applicant, if not already deposited by the applicant.

(f) The applicant shall remain personally present before this Court at the time of final hearing of the criminal revision application.

(g) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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