

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

CRIMINAL APPEAL NO.247/2018
Ramdas s/o Atmaram Kale and anr

..vs..

State of Mah., thr. Anti Corruption Bureau, Akola, Taluka and District Akola

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

Court's or Judge's Order

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Ms Falguni Badani, Adv. h/f Shri S.V. Sirpurkar, Counsel for the appellants.
Shri Amit Madiwale, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : APRIL 12, 2018.

1. Heard Advocate Ms Falguni Badani h/f learned counsel Shri S.V. Sirpurkar for the appellants.
2. **ADMIT.**
3. Learned Additional Public Prosecutor Shri Amit Madiwale waives service on behalf of the State.

Criminal Application (APPA) No.358/2018

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard learned counsel for the applicants/appellants and learned Additional Public Prosecutor for the State. Also, perused the impugned judgment.
3. The applicants/appellants are convicted on 31.3.2018

by learned Judge of the Special Court, Akola in Special ACB Case No.5/2004.

By the said, applicant No.1/appellant Ramdas is convicted for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (for short, "*the said Act*") read with Section 34 of the Indian Penal Code and he is directed to suffer simple imprisonment for 6 months and to pay a fine of Rs.500 and, in default of payment of the fine amount, to suffer further simple imprisonment for 3 months. He is also convicted for the offences punishable under Sections 13(1)(d) and 13(2) of the said Act read with Section 34 of the Indian Penal Code and is directed to suffer simple imprisonment for 1 year and to pay a fine of Rs.500/- and, in default of payment of the fine amount, to suffer further simple imprisonment for 3 months.

Applicant No.2/appellant Kailash, is also convicted for the offence punishable under Section 7 of the said Act read with Section 34 of the Indian Penal Code and is directed to suffer simple imprisonment for 6 months and to pay a fine of Rs.500/- and, in default of payment of the fine amount, to suffer further simple imprisonment for 3 months.

4. It is the submission of learned counsel for the applicants/appellants that during the pendency of the Trial, the applicants/appellants were on bail and at no point of time they misused the liberty granted to them in their favour. It is also her

submission that both the applicants/appellants have already paid the entire fine amount and receipts thereof are filed on record. She has also invited my attention to paragraph No.2 of the application which states on affidavit that after the impugned judgment, both the applicants/appellants were released on bail by learned Judge of the Court below by suspending the substantive jail sentence.

5. After having heard learned counsel for the applicants/appellants and learned Additional Public Prosecutor for the State, in my view, the applicants/appellants have made out a case for suspension of substantive jail sentence and for grant of bail.

6. In that view of the matter, I pass following order:

ORDER

(i) The criminal application is allowed.

(ii) Substantive jail sentence imposed upon the applicants/appellants on 31.3.2018 by learned Judge of the Special Court, Akola in Special ACB Case No.5/2004 shall remain suspended during the pendency of the present appeal.

(iii) Applicants/appellants Ramdas s/o Atmaram Kale and Kailash Fulchand Ingle, be released on bail on they executing P.R. Bond in the sum of Rs.5000/- by each of them with one solvent surety by each of them of the like amount.

(iv) The applicants/appellants are directed to remain

personally present before this Court at the time of final hearing of the present appeal.

(v) With this, the criminal application stands allowed and disposed of accordingly.

JUDGE

!! BRW !!

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