

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

**CRIMINAL APPLICATION NO.1184 OF 2019
IN
CRIMINAL APPEAL NO.971 OF 2019**

Dharamraj Vitthal Godase Applicant

Vs.

The State of Maharashtra Respondent

Mr. Laxman Shivajirao Deshmukh for the Applicant.

Mr. S.R. Agarkar, APP for State.

Mr. S.N. Gaikwad, Havaladar, Sangola Police Station, Solapur
Gramin.

**Coram : Smt. Sadhana S. Jadhav, J.
Date : 13th August 2019**

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 Extra Joint Additional Sessions Judge, Pandharpur, in Sessions Case No.7 of 2019, for the offence punishable under Section 304 of Indian Penal Code and under Section 135 of Indian Electricity Act. The applicant is sentenced to suffer rigorous imprisonment

for five years and fine of Rs.50,000/-, in default simple imprisonment for six months and rigorous imprisonment for one year and fine of Rs.5,000/-, in default simple imprisonment for one month respectively vide judgment and order dated 6th July 2019. The applicant is in custody since 6th July 2019.

3. Learned counsel for the applicant submits that the applicant is an agriculturist. He neither had knowledge nor intention to cause death of Mohan Mahadev Pailwan. It appears that he had taken unauthorised electricity connection for supplying water to his crops and had fixed electric motor on the canal. It is submitted that the applicant was on bail during pendency of the trial and has not committed breach of any conditions imposed upon him. The applicant has deposited the amount of fine.

4. Learned Sessions Judge, Pandharpur has convicted the applicant under Section 304 of Indian Penal Code without specifically stating as to whether the applicant is convicted for the offence punishable under Section 304(I) or 304(II) of I.P.C.. It appears that the learned trial Judge has not

distinguished the same. However, the sentence imposed upon the applicant is a short term sentence. The applicant happens to be an agriculturist. In view of this, the applicant deserves to be enlarged on bail during pendency of the appeal. Hence, the following order.

ORDER

- i) The application is allowed and stands disposed of.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 6th July 2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent *local* sureties in the like amount.
- iv) Upon being enlarged on bail, the applicant shall report to the Court of Sessions Judge, Pandharpur 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 make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

(Smt. Sadhana S. Jadhav, J)