

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

**CRIMINAL APPLICATION NO.114 OF 2019
IN
CRIMINAL APPEAL NO. 110 OF 2019**

Aarogya Swamy Lodhu Paul and anr. ... Applicants/Appellants
Vs
The State of Maharashtra ... Respondent

...
Mr.Vinod Kashid for the applicants.
Mr.Dilip Mishra, Special P.P. for the respondent-State.
...

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 18th JULY 2019.

P.C. :

1. The applicants are accused in MCOC Special Case No. 5/2013 for the alleged offences punishable under Sections 120(b), 387, 506(2), 307, r/w 109 of Indian Penal Code, 1860, and under Section 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999. Upon trial, the Additional Sessions Judge & Special Judge under MCOC Act, Mumbai, through its Judgment, dated 18th January 2019, convicted all accused including the present applicants to undergo 5 years of rigorous imprisonment besides other punishment.

2. The applicants' counsel submits that during the trial the applicants

were in judicial custody for 16 months. Now, after Judgment, dated 18th January, 2019, they have been serving sentence for the last 6 months. He has also submitted that the applicants, initially 16 months, had been enlarged on bail by the trial Court and they have not violated the bail conditions.

3. Heard the learned counsel Mr. Kashid for the applicants and Mr. Mishra, Special P.P. for the respondent-State.

4. Of the 5 years sentence, the applicants have effectively served close to 2 years. Besides, they have been on bail during the trial and have not violated the bail conditions. The learned APP does not dispute that the applicants have no criminal antecedents.

5. Under these circumstances, I hold, in the interest of justice, that the sentence be suspended and the applicants enlarged on bail subject to the following conditions:

:: ORDER ::

- (i) Criminal Application is allowed.
- (ii) Substantive sentence imposed on the applicants/accused is suspended and they are directed to be released on bail on their executing P.R. Bond in the sum of Rs.30,000/- each and their furnishing two sureties in the like amount by each of them.

- (iii) The applicants/accused should not contact the first informant or victim, or any other witness, or any member of the victim's family in any manner, pending this appeal.
- (iv) The applicants' failure to abide by these conditions shall entail the prosecution to apply for cancellation of bail granted to the applicants/accused.
- (v) Criminal Application is, accordingly, disposed of.

(DAMA SESHADRI NAIDU, J.)