

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.181 OF 2019

IN

CRIMINAL APPEAL NO.180 OF 2019

Sagar Ankush Mohite

...Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Nikhilesh Pate, Advocate for the Applicant.

Mr. S.V. Gavand, APP for the Respondent/State.

CORAM : A.M.BADAR J.

DATED : 13th FEBRUARY 2019

P.C. :

1. This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. The applicant/accused is convicted for the offence punishable under Section 395 of the Indian Penal Code and he is sentenced to suffer rigorous imprisonment for three years apart from imposition of fine of Rs.1,000/- and in default to suffer simple imprisonment for one week.

2. Heard the learned Advocate appearing for the applicant/accused. He argued that the applicant/accused was on bail and short sentence of imprisonment imposed on him has already been suspended by the learned trial Court. He argued that after acquittal of accused No.4, there cannot be conviction for the offence punishable under Section 395 of the Indian Penal Code.

3. The learned Additional Public Prosecutor opposed the application.

4. I have perused the submissions so advanced and perused the impugned Judgment and Order of conviction and resultant sentence.

5. The applicant/accused was on bail during pendency of the trial. He is enlarged on bail after recording conviction against him by the learned trial Court. Short sentence of imprisonment is imposed on him. Therefore, the Order :

ORDER

(i) The application is allowed.

(ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P. R. Bond of Rs.25,000/- and on furnishing surety in the like amount.

(iii) As a condition of this order, the applicant/accused should not repeat commission of similar offences in future.

(iv) The application is disposed of accordingly.

(A.M.BADAR J.)