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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION No. 225 OF 2019
IN
CRIMINAL APPEAL No. 506 OF 2010

Kashinath Keshav @ Krushnat Kamble ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Dilip Shinde i/b Sachin Hande, for the Applicant.
Mrs. S. V. Sonawane, APP for the Respondent - State.

**CORAM : INDRAJIT MAHANTY, &
SARANG V. KOTWAL, JJ.**

DATE : FEBRUARY 18, 2019

PC :

1. The Applicant herein was facing a trial before the Additional Sessions Judge, Kolhapur in Sessions Case No. 136 of 2008 for the offences punishable under S. 498-A and 302 of the Indian Penal Code. The said case ended in acquittal of the accused (respondent in the appeal). The State thereafter preferred an application for leave to file an appeal. Leave was granted and the appeal was registered as Criminal Appeal No. 506 of 2010. While granting leave by the order dated 18th June, 2010 this Court directed that the action be taken under S. 390 Cr. P. C. Thereafter, it appears that notice could not be served on the applicant, as he was not available. Thereafter, vide order dated 27.10.2014 this

Court issued non-bailable warrant against the present applicant. Thereafter, the applicant was arrested and was produced before the Additional Sessions Judge, Kolhapur on 19.6.2018. The applicant made an application for bail before the learned Additional Sessions Judge, Kolhapur. The learned Judge vide his order dated 25th June, 2018 rejected the Applicant's application for bail. Thereafter, present applicant has preferred this application for bail in Criminal Appeal No. 506 of 2010.

2. Section 390 Cr. P. C. provides for release of the accused on bail while his appeal is pending in the High Court, which reads thus :

“390. Arrest of accused in appeal from acquittal.- When an appeal is presented under section 378, the High Court may issue a warrant directing that the accused be arrested and brought before it or any subordinate Court and the Court before which he is brought may commit him to prison pending the disposal of the appeal or admit to bail.”

3. Pursuant to the provisions of S. 390 Cr.P.C., learned Additional Sessions Judge did not grant bail to the applicant, taking into consideration the fact that he was not available for a considerable period for service of notice. We are of the considered view that, though the present applicant was not available for service of notice for a long period, the fact still remains that he was acquitted after a full-fledged trial. The applicant is stated to be a labourer and has to move from place to place in search of work.

4. The learned counsel for the Applicant states that applicant is ready to furnish sureties to secure his presence pending the appeal before this Court. Considering the fact that accused was acquitted by the trial court, and since 19.6.2018 he is in custody, we are inclined to grant him bail pending this appeal. Hence, the following order.

Order

- (i) The applicant Kashinath Keshav @ Krushnat Kamble be released on bail, on his furnishing P. R. bond in the sum of Rs. 10,000/- with one or two sureties in the like amount.
- (ii) The applicant shall attend the Panhala Police Station every alternate Sunday from 10.00 a. m. to 12.00 noon pending the disposal of appeal before this Court.
- (iii) The criminal application is disposed of in the aforesaid terms.

Sd/-
[SARANG V. KOTWAL, J.]

Sd/-
[INDRAJIT MAHANTY, J.]

Vinayak Halemath