

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 312 OF 2019
IN
CRIMINAL APPEAL NO. 470 OF 2019

Amol Vishwas Ovhal

..Appellant/Applicant

v/s.

The State of Maharashtra

..Respondent

Mr. Satyavrat Joshi for the Appellant/Applicant.

Mr. S.R. Agarkar-APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 12th April, 2019.

P.C.

1. Heard.

2. This is an application filed under Section 389 of Cr.P.C. The applicant herein is seeking suspension of substantive sentence imposed upon him by Additional Sessions Judge Pune in Sessions Case No. 234 of 2018, vide judgment and order dated 20th February 2018. The applicant is convicted for the offence punishable under Sections 399 and 402 of the Indian Penal Code and under sections 37(1) and 135 of Maharashtra Police Act (old Bombay Police Act) and sentenced to suffer rigorous imprisonment for two years and to pay a fine amount of Rs. 500/- each (rupees five hundred), in default, to suffer simple imprisonment for one month on each count.

3. The applicant is in custody since 20th February 2018 in this case while he was undergoing substantive sentence in some other cases. The learned counsel for the applicant submits that the applicant has undergone more than half of the sentence in this case and that the co-accused in Criminal Application No. 419 of 2018 in Criminal Appeal No. 255 of 2018 have been enlarged on bail by this Court vide order dated 19th March 2018.

4. Be that as it may, the applicant was on bail during the pendency of the trial and he has not committed breach of any conditions imposed upon him. The sentence imposed upon him is short term sentence. The applicant has criminal antecedent. The learned APP prays for notice of enhancement. However, since the appeal of the co-accused has already been admitted it would not be proper to issue notice of enhancement. Hence, the following order:-

Order

- i) The Criminal Application is allowed.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 20th February 2018 passed by Additional Sessions Judge Pune in Sessions Case No. 234 of 2018 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 30,000/- and one or more solvent sureties in the like amount.
- iv) The applicant shall cause his presence before

Additional Sessions Judge, Pune, once in six months on the date assigned by the learned Additional Sessions Judge, Pune.

v) Upon failure to attend any two consecutive dates, the learned Additional Sessions Judge, Pune shall make report to the High Court and the prosecution would be at liberty to seek cancellation of bail.

vi) The application stands disposed of.

(SMT. SADHANA S. JADHAV, J)