

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 533 OF 2019
IN
CRIMINAL APPEAL NO. 535 OF 2019

Prakash Sitaram Andhare.

..Applicant.

V/s.

The State of Maharashtra.

..Respondent.

Mr. V.V. Purwant, advocate for applicant.

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

Mr. A.A. Tadv, H.C., Ganeshpuri Police Station, Thane (Rural).

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : APRIL 2, 2019.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 389 of the Code of Criminal Procedure, 1908 seeking suspension of substantive sentence imposed upon the applicant vide Judgment and Order dated 29/3/2019 passed by Ad-hoc Dist. Judge and Additional Sessions Judge, Thane in Sessions Case No. 300 of 2014 convicting the applicant for the offence punishable under section 3(1)(xi) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 354 and 452 of the Indian Penal Code and sentencing him to suffer R.I. for 3 years and to

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pay fine of Rs. 1,000/-.

3 The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. The fine amount is paid. The sentence imposed upon the applicant is a short terms sentence. It is vehemently submitted by the learned Counsel for the applicant that despite the fact that the applicant was on bail during the pendency of the trial and the sentence imposed upon the applicant is 3 years and fine of Rs. 1,000/-, the learned Sessions Judge has rejected the application seeking suspension of substantive sentence and therefore, the applicant is in custody since 29th March, 2019.

4 Be that as it may, upon perusing the facts of the case and upon going through the impugned Judgment, this Court is of the opinion that the applicant deserves to be granted bail during the pendency of the appeal.

5 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) The substantive sentence imposed upon the applicant vide Judgment and Order dated 29/3/2019 passed by ad-hoc Dist. Judge-1 and

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Additional Sessions Judge, Thane is hereby suspended. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or more sureties in the like amount.

(iii) The applicant shall mark his presence before the Special Court once in 6 months on the date specified by the Sessions Court, Thane. On failure to attend any two consecutive dates, the Sessions Court, Thane shall report the same to the High Court and the prosecution is at liberty to move for cancellation of bail.

6 The application is disposed of accordingly.

The parties to act on the authenticated copy of this order.

[SMT. SADHANA S. JADHAV, J.]