

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 579 OF 2019
IN
CRIMINAL APPEAL NO. 513 OF 2019

1 Sumit Sadashiv More

2 Sandhya Sadashiv More

3 Sadashiv Mahadev More. ..Applicants.

V/s.

The State of Maharashtra. ..Respondent.

Mr. Yogesh V. Karande I/b. Mr. Vijay Rohidas Shinde, advocate for applicants.

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

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : APRIL 10, 2019.

P. C. :

1 Heard the learned Counsel for the applicants 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 applicants. The applicants herein are convicted for offence punishable under section 498A read with section 34 of the Indian Penal Code and sentenced to suffer R.I. for 2 years and to pay fine of Rs. 5,000/- each I.d. to suffer R.I. for 3 months each vide Judgment

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and Order dated 15th March, 2019 in Sessions Case No. 390 of 2013. The applicants are acquitted of the charge under sections 306 and 304B read with section 34 of the Indian Penal Code.

3 The learned Counsel for the applicants submits that the applicants were on bail during the pendency of the trial and hence, they are entitled to extension of the same relief during the pendency of the appeal. The sentence imposed upon the applicants is a short term sentence.

4 Reliance can be placed upon the Judgment of the Apex Court in the case of Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130 for seeking suspension of substantive sentence during the pendency of the appeal which cannot be heard at the earliest thereby causing the prayer to become infructuous.

4 In view of this, the applicant deserves to be enlarged on bail. Hence following order is passed :

ORDER

(i) The application is allowed.

(ii) The substantive sentence imposed upon the applicants vide Judgment and Order dated 15/3/2019 passed by Additional Sessions

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Judge, Thane in Sessions Case No. 390 of 2013 is hereby suspended and the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or more solvent sureties in the like amount.

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

7 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]