

Vidya Amin.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION No. 210 OF 2019
IN
CRIMINAL REVISION APPLICATION NO. 165 OF 2019**

Rajiv Virendra Bhatia	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Karan L. Jain, Advocate for the applicant.
Mr. N.B. Patil, APP for the respondent/State.

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: 25th April, 2019**

P.C. :

1. The Criminal Application is moved by the applicant/accused for suspension of sentence and also for bail pending the Criminal Revision Application. The applicant/accused was convicted by order dated 26th July, 2017 passed by the learned Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai for the offence punishable under section 406 of Indian Penal Code and is sentenced to suffer R.I. for 2 years. He is also convicted for the offence punishable under section 420 of Indian Penal Code and is sentenced to suffer R.I. for 18 months. The learned Magistrate directed that both the sentence shall run consecutively and also directed the accused to pay compensation of Rs.2,00,000/- to the

first informant and in default, to suffer further imprisonment of six months. The said order was passed as the applicant/accused has pleaded guilty. The said order was challenged by way of Criminal Appeal No. 542 of 2017, however, it was dismissed by judgment and order dated 8th May, 2018 passed by the learned Additional Sessions Judge, Greater Mumbai.

2. The learned Counsel for the applicant/accused submitted that the applicant/accused is in custody since August, 2016 as in the order of the learned Additional Chief Metropolitan Magistrate, he has granted a set off for custody of 10 months and 28 days. The learned counsel submitted that the applicant/accused should not have been convicted for the offence under sections 420 and 406. On merits, the applicant/accused has good case on this point and also on the point of granting punishment consecutively. The learned counsel further submitted that the applicant/accused in fact has undergone punishment of 2 years and 8 months and therefore, he is to be released on bail. The learned counsel submitted that the applicant is ready to deposit compensation of Rs.2,00,000/- in favour of the complainant and he be allowed to deposit the same in this Court.

3. Learned Prosecutor is present and submits to the orders of the Court.

4. Considered that the applicant/accused is in the prison since last 2 years and 8 months and also as there is no chance that the Revision Application will be heard in near future, the application is allowed on the following terms:

- (i) The sentence is suspended, pending the Criminal Revision Application;
- (ii) The applicant/accused shall be released on bail upon furnishing a P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (iii) The applicant/accused shall deposit the amount of compensation of Rs.2,00,000/- in the High Court on or before 2nd May, 2019;
- (iv) The applicant/accused shall make himself available on all the Court dates;
- (v) The applicant/accused shall not jump the bail;
- (vi) The applicant/accused shall not indulge into any criminal activity.

5. Criminal Application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)