

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

**CRIMINAL APPEAL NO.588 OF 2019
ALONGWITH
CRIMINAL APPLICATION NO.597 OF 2019**

Sandesh Balu Brahmane Appellant

Vs.

The State of Maharashtra Respondent

Mr. Ganesh K. Gole for the appellant/applicant.

Ms. Pallavi N. Dabholkar, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 2nd May 2019

P.C.:

1. Heard the respective counsel.
2. Appeal admit. Leave to add Kaushalya Vijay Bhogade as party-respondent in the Appeal. Amendment to be carried out within one week from today
3. Learned counsel, Mr. Gole waives service in the proceedings of notice of enhancement and has placed on record a copy of the order dated 18th April 2019 passed by Additional Sessions Judge, Thane, which

indicates that the appellant has surrendered on 18th April 2019 and is taken into judicial custody and continues to be in judicial custody since then.

4. The above application is filed under Section 389 Code of Criminal Procedure seeking suspension of substantive sentence imposed upon the appellant/applicant. The applicant herein is convicted by the Additional Sessions Judge, Thane vide judgment and order dated 8th March 2019 in Sessions Case No.22 of 2015 for the offence punishable under Section 304(II) of Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and fine of Rs.50,000/-, in default to suffer, simple imprisonment for six months.

5. This Court had perused the evidence and the judgment and has opined that the sentence imposed upon the applicant is not proportionate that too the offence that is committed and hence, this Court by order dated 11th April 2019 has issued a notice of enhancement. The notice of enhancement is admitted.

6. The sentence imposed upon the applicant is a short term sentence. The applicant is in custody and hence he is entitled to the

extension of same relief during the pendency of the appeal. The appeal would be decided on its own merits at the stage of final hearing. Hence, the following order.

ORDER

- i) The application is allowed.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 8th March 2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- iv) The applicant shall mark his presence before the Additional Sessions Judge, Thane once in three months on the date assigned by the Sessions Judge.
- v) Upon failure to attend any two consecutive dates, the Sessions Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

Parties to act on authenticated copy of this order.

(Smt. Sadhana S. Jadhav, J)