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

***CRIMINAL APPLICATION NO.1573 OF 2018
(FOR BAIL)
IN
CRIMINAL APPEAL NO.1125 OF 2018***

Mhalappa Shivaji Bandichode ...Applicant
Versus
The State of Maharashtra ...Respondents

Mr.V.V.Purwant, for the Applicant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 5th APRIL, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.

3. Learned Counsel for the Applicant submitted that the Applicant has been falsely implicated in the said case. He states that the delay in lodging the FIR has not been explained by PW1 – Dhanraj Suryakant Birajdar. He further submitted that the evidence on record even for recovery of gold ornaments has not been proved by the prosecution. He states that the applicant was on bail, pending the trial and that he has not abused or misused the liberty granted to him. He further states that the Applicant has no antecedents.

4. Learned A.P.P. opposed the Application.

5. The applicant has been convicted by the learned Additional Sessions Judge – 5, Solapur, vide Judgment and Order dated 5th June, 2018, passed in Sessions Case No.215 of 2017, for the offence punishable under Section 397 of the Indian Penal Code and has been sentenced to suffer simple imprisonment for 7 years and for the offence punishable under Section 323 of the Indian Penal has been sentenced to be suffer simple imprisonment for 1 year and to pay fine of Rs.1,000/-, in default of payment of fine, to suffer simple imprisonment for 3 months. The

Applicant was however acquitted of the offences punishable under Sections 504 and 506 of the Indian Penal Code.

6. Perused the papers. It appears that the delay in lodging the FIR has not been explained by PW1 and there is some discrepancy with regard to the recovery of gold ornaments. It also appears that the applicant was on bail, pending the trial and that he has not abused or misused the liberty granted to him. The Appeal has been admitted by this Court vide order dated 22nd November, 2018 and the same is not likely to come up for the hearing in the immediate near future. The sentence awarded is a short term sentence.

7. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms and conditions :

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;

ii) The Applicant shall report to the trial Court, once in three months on the day/date specified by the trial Court, till his Appeal is finally disposed of;

iii) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.

