

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 811 OF 2019
WITH
CRIMINAL APPLICATION NO. 812 OF 2019
IN
CRIMINAL APPEAL NO. 750 OF 2019

Ganesh Motiram Waghmare.

..Applicant.

V/s.

The State of Maharashtra.

..Respondents.

Mr.Satyaram R. Gaud, advocate for applicant.

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

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JUNE 4, 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 the sentence imposed upon the applicant. The applicant is original accused No. 4 in Sessions Case No. 39 of 2015. The applicant has been convicted for the offence punishable under section 411 of the Indian Penal Code and sentenced to suffer R.I. for 3 years and to pay fine of Rs. 50,000/- I.d. to suffer R.I. for 6 months, vide Judgment and Order dated 29/3/2019 by the Additional

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Sessions Judge, Palghar.

3 The learned Counsel for the appellant submits that the applicant is a farmer. He had no knowledge that the vehicle that was being sold was a stolen property. He was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. The sentence imposed upon applicant is a short term sentence. It is submitted that the amount of fine has been paid on 1st April, 2019. Co-accused are convicted for life imprisonment.

4 In view of this, the applicant deserves to be enlarged on bail during the pendency of the appeal. However, it is made clear that suspension of substantive sentence shall not be construed as suspension of conviction. Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended. He 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.
- (iii) The applicant shall report to the Sessions Judge, Palghar once in 6 months on the date assigned by the learned Sessions Court, Palghar. Upon failure to attend, the learned Sessions Court, Palghar

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shall report to the same to the High Court and the prosecution is at liberty to move for cancellation of bail.

5 The application is disposed of accordingly.

6 In view of the above order, Criminal Application No. 812 of 2019 also stands disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]