

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO. 4464 OF 2019**

|                          |               |
|--------------------------|---------------|
| Albert Allan             | ...Petitioner |
| Versus                   |               |
| The State of Maharashtra | ...Respondent |

Mr. Mohammed Varawala i/b Mr. Ashish Baraskar for the Petitioner

Ms. P. P. Shinde, A.P.P for the Respondent-State

**CORAM : REVATI MOHITE DERE, J.**  
**WEDNESDAY, 4<sup>th</sup> DECEMBER 2019**

**P.C. :**

1            Heard learned counsel for the petitioner and the learned A.P.P.

2            By this petition, the petitioner has impugned the order dated 3<sup>rd</sup> April 2019 passed by the learned Additional Sessions Judge, City Civil and Sessions Court, Borivali Division, Dindoshi, Goregaon, Mumbai, below Exhibits 3 and 5 in Criminal Appeal Nos. 66/2019, by which the petitioner's application seeking his enlargement on bail and suspension of sentence was rejected.

3            Perused the papers. The petitioner, a foreign National was arrested in connection with C.R. No. 378/2012 registered with the Sahar

Police Station, Thane, for the alleged offence punishable under Sections 465, 468, 471, 420 r/w 34 of the Indian Penal Code and Section 14(A)(b) of the Foreigners Act of 1946. After investigation, charge-sheet was filed in the said case as against the petitioner. It is not in dispute that during the pendency of the trial, the petitioner was enlarged on bail. The trial proceeded as against the petitioner and the petitioner was convicted for the offences punishable under Sections 465, 468, 471, 420 r/w 34 of the Indian Penal Code and Sections 14(A)(b) of the Foreigners Act vide judgment and order dated 18<sup>th</sup> February 2019 passed by the learned Additional Chief Metropolitan Magistrate, 22<sup>nd</sup> Court, Andheri, Mumbai, in CC No. 41/PW/2013. Pursuant to the said judgment and order of conviction and sentence dated 18<sup>th</sup> February 2019, the petitioner filed an appeal before the learned Sessions Judge at Dindoshi, Borivali Division, Goregaon, Mumbai, being Criminal Appeal No. 66/2019. Along with the said appeal, the petitioner filed applications i.e. Exhibit 3 and Exhibit 5, praying therein for suspension of his sentence and grant of bail till the decision of his appeal. The learned Additional Sessions Judge vide order dated 3<sup>rd</sup> April 2019 rejected the applications (Exhibits 3 and 5). Being aggrieved by the said order passed below Exhibits 3 and 5 in Criminal Appeal No. 66/2019, the petitioner has filed the aforesaid petition.

4           It is not in dispute that the petitioner was on bail during the pendency of his trial. Learned A.P.P has also not brought any thing on record to show that the petitioner had, at any time, absconded during the time when he was on bail or during trial or that the petitioner had tampered with the prosecution witnesses. The petitioner was in custody for about 9 months after his arrest and is presently in custody since 18<sup>th</sup> February 2019 i.e. after his conviction. The maximum sentence imposed on the petitioner is 5 years and as such the petitioner has undergone almost 2 years in custody.

5           Considering the aforesaid, the petition is allowed and the impugned order dated 3<sup>rd</sup> April 2019 passed by the learned Additional Sessions Judge below Exhibits 3 and 5 in Criminal Appeal No. 66/2019 is quashed and set-aside. Accordingly, the petitioner's sentence is suspended pending the hearing and final disposal of his appeal being Criminal Appeal No. 66/2019 pending in the Court of the learned Additional Sessions Judge, Borivali Division, Dindoshi, Goregaon, Mumbai, and he is released on bail on the following terms and conditions :

- (i)   The petitioner be released on provisional cash bail in the sum of Rs. 25,000/-, for a period of four weeks;

(ii) The petitioner shall within the said period of four weeks, furnish P.R. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount;

(iii) The petitioner shall not leave the local limits of Greater Mumbai/Thane, without the permission of the trial Court, pending the appeal;

(iv) The petitioner shall furnish his address, where he intends to stay in Mumbai, to the Appellate Court, within 36 hours of his release.

6      Petition is disposed of in the aforesaid terms.

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

**REVATI MOHITE DERE, J.**