

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

CRIMINAL APPLICATION NO. 1329 OF 2019

IN

CRIMINAL APPLICATION NO. 1687 OF 2018

IN CRIMINAL APPEAL NO. 1050 OF 2018

Rahul Ashok Sharma

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Adeeba Khan i/b Mateen Abdul Rahim Shaikh – Advocate
for the applicant.

Ms. P. N. Dabholkar – APP for the Respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 21st AUGUST 2019.

P.C. :

This Court suspended the sentence and granted the bail to the applicant on 10.10.2018. Now the applicant's counsel informs the Court that the applicant is still in jail because he could not furnish the sureties as this Court required.

2. Seen from the record, on 8.07.2019 the applicant sent from jail a representation to the Court; it is in the vernacular. The learned APP informs me that the applicant expressed his inability to provide sureties as was directed in this Court's order, dated 10.10.2018. Instead, he seeks his release on his bond.

3. I reckon this Court, in its order dated 10.10.2018, has *prima facie* found merit in the applicant's contentions and suspended the sentence, besides ordering his release on bail. Once the applicant has earned his liberty, it is iniquitous to let him rot in jail for his inability—only if it is genuine—to provide sureties. Monetary considerations should not affect the merits of a claim, much less a citizen's liberty if it is well-earned.

4. A bail carries conditions only to ensure the undertrial's or the already convicted person's presence pending trial or appeal. On the other hand, in any given case, if the prosecution—to be precise, the police—could ensure that the accused or the convicted appellant does not flee the course of justice, onerous—especially financial—bail conditions need not be insisted upon. I think the applicant's putative poverty should not cost him his liberty.

Under these circumstances, I partially modify the order dated 10.10.2018 as follows:

2) Substantial sentence of imprisonment imposed on the applicant/accused is suspended, and the applicant/accused is directed to be released on bail on his executing PR Bond for Rs. 15000/-.

The rest of the conditions remains unaltered.

[DAMA SESHADRI NAIDU, J.]