

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

**CRIMINAL APPLICATION NO.1336 OF 2019
IN
CRIMINAL APPEAL NO.1057 OF 2018
WITH
CRIMINAL APPEAL NO.1299 OF 2018**

Guddu Lalman Varma ... Applicant

v/s.

The State of Maharashtra ... Respondent

Mr. Sheikh Md. Imran for applicant in appa 1336/19.

Mr. Rupesh Kamble i/b. Silvin Y. Kale for the appellant in appeal
1299/18.

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

CORAM : DAMA SESHADRI NAIDU, J.

22nd August 2019.

P.C.

The applicant is the 4th accused in Crime No.21/2016 for the offences under Sections 395 & 397 read with Section 34 of IPC. In Sessions Case No.467/2016 the applicant, alongwith other accused, was tried and convicted. The Additional Sessions Judge, City Civil Court, Greater Mumbai, through judgment and order dated 3rd May

2018, convicted the applicant, among other things, to seven years rigorous imprisonment.

2. Heard Shri Sheikh Md. Imran for the applicant and Ms. P.N.Dabholkar, the learned APP for the State.

3. As seen from the record, the 4th respondent was arrested on 6th April 2016 and had been in judicial remand all through the trial. The judgment pronounced on 3rd May 2018, he continues to serve the sentence to this date.

4. The applicant's counsel submits that the applicant as the 4th respondent had not been attributed any overt act by the prosecution. He allegedly stood at the scene of offence when the other accused perpetrated the crime. Therefore, he stresses that applicant should have been given the benefit of doubt.

5. The learned APP has submitted that the offence is grave and the sentence is for seven years.

6. From the date of arrest, the applicant has so far been serving the sentence for over three years. The remission included, the period comes to over 50% of the sentence imposed. Given the docket pressure, I reckon it is unlikely for the Court to take up the appeal immediately.

Under these circumstances, I suspend the sentence and enlarge the applicant on bail subject to these conditions:-

ORDER

- (i) Criminal Application is allowed.
- (ii) Substantive sentence imposed on the applicant-accused is suspended and is directed to be released on bail on his executing P.R. Bond for Rs.20,000/- and on his furnishing two sureties, each for the like amount.
- (iii) The applicant-accused should not abuse the liberty he is now granted.
- (iv) The applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail granted to the applicant- accused.

(DAMA SESHADRI NAIDU, J)

L.S. Panjwani, P.S.