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

**CRIMINAL APPLICATION NO.421 OF 2019
IN
CRIMINAL REVISION APPLICATION NO.453 OF 2019**

Mohd. Hanif Jainul Abedin Shaikh	...	Applicant
V/s.		
State of Maharashtra	...	Respondents

Mr. Sharif Khan i/by Ms. Naziya M. Bhaldar, for the Applicant.

Mrs. M. H. Mhatre, APP for respondent State.

CORAM : N. J. JAMADAR, J.

DATE : 11th December, 2019.

PC. :

- 1] Heard the learned counsel for the applicant and the learned APP.
- 2] The challenge in this Revision is to the judgment and order, passed by the learned Additional Sessions Judge, Greater Bombay, in Criminal Appeal No.59 of 2014, whereby the learned Additional Sessions Judge, was persuaded to dismiss the appeal and confirm the judgment and order in C.C. No.0800610/PW/2008, passed by the learned Additional Chief Metropolitan Magistrate, 8th Court, Esplanade, Mumbai, dated 2nd January, 2014, whereunder the applicant and co-accused were convicted for the offence

punishable under Rule 6 of the Passport (Entry into India) Rules, 1950, and under para 3(1) of the Foreigners Order, 1948 punishable under Section 14 of the Foreigners Act, 1946, and sentenced to suffer simple imprisonment for two months and six months, respectively. The prosecution was also directed to take steps for deportation of the applicants out of India.

3] The learned counsel for the applicant has submitted that the applicant has undergone the sentence of imprisonment, imposed upon him by the learned Additional Chief Metropolitan Magistrate. The applicant is under threat of being deported in pursuance of the directions of the learned Magistrate.

4] The attention of this Court is invited to the Roznama of the Criminal Case No. 0800610/PW/2008. It appears that the applicant had desired to lead defence evidence. However, defence evidence could not be recorded. Even the arguments for the defence were not heard. The conduct of the applicant may be blame-worthy. Yet the fact remains that the applicant was not in a position to defend himself effectively in the prosecution before the learned Magistrate.

5] It is informed to the Court that the concerned agency is in the process of deporting the applicant on 14th December, 2019. The applicant claims to be a citizen of India. The applicant has already undergone the sentence of imprisonment.

6] In the circumstances, it would be expedient in the interest of justice to stay the order of learned Magistrate directing deportation of the applicant till disposal of the Revision Application.

6] Thus, the direction of deportation issued by the learned Additional Chief Metropolitan Magistrate, by the judgment and order dated 2nd January 2014, in C.C. No. 0800610/PW/2008 and confirmed by the learned Additional Sessions Judge, in Criminal Appeal No.59 of 2014, by judgment and order dated 11th May, 2015, stands stayed till disposal of the Revision Application.

7] The applicant shall attend S.B.1. CID "I" Branch, Bombay, on alternate Monday at about 4.00 p.m. to mark his presence only.

8] The Criminal Application No.421 of 2019 stands disposed of in above terms.

Revision Application be listed for final hearing on 10.01.2020.

[N. J. JAMADAR, J.]