

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL REVISION APPLICATION NO.70/2019

Sau.Sarala Ghansham Ahuja

..VS..

The State of Mah., thr. PSO PS Gadage Nagar, Amravati

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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Shri S.A.Kalbande, Counsel for the applicant.
Shri V.P.Gangane, Addl.P.P. for the State.

CORAM : M.G.GIRATKAR, J.

DATED : MARCH 27, 2019.

1. Heard learned counsel Shri S.A.Kalbande for the applicant.
2. Issue Notice for final disposal to the non-applicant.
3. The record and proceedings be called for.
4. Learned Additional Public Prosecutor Shri V.P.Gangane waives Notice.

Criminal Application (APPR) No.101/2019

1. This is an application for suspension of sentence and for grant of bail.
2. Heard learned counsel Shri S.A.Kalbande for the applicant and learned Additional Public Prosecutor Shri V.P.Gangane for the State.
3. By judgment and order dated 24.9.2012 passed by learned Magistrate, Court No.13 at Amravati in Regular

.....2/-

Criminal Case No.2928/2008, the applicant was convicted for offences under Sections 32-B and 34 of the Bombay Money Lending Act, 1946 and sentenced to suffer simple imprisonment for 6 months and to pay a fine of Rs.1000/- and in default of payment of the fine amount to undergo simple imprisonment for 1 month. The said order was challenged before learned Sessions Judge at Amravati in Criminal Appeal No.170/2012. The said appeal came to be dismissed, however the sentence was modified from 6 month simple imprisonment to 3 months simple imprisonment.

5. Learned counsel for the applicant points out decision in the case of Ashok Laxman Gote and anr vs. State of Maharashtra and anr, reported at [2008(2) Mh.L.J. (Cri.)673]. He submits that offence under Section 32B of the said Act is non-cognizable and, therefore, police could not have filed the case against the applicant. At last, he submits that the applicant has good case on merits in his favour and prays for suspension of substantive jail sentence.

6. Learned Additional Public Prosecutor V.P.Gangane for the State supports the impugned judgment.

7. In the case cited *supra*, it is held by this Court that offence under Section 32B of the said Act is non-cognizable and, therefore, police could not have taken cognizance.

8. It appears that chargesheet was filed by the police on the report lodged by Registrar of cooperative society. The police could not have taken cognizance.

Whether it is legal or not, the same has to be

.....3/-

decided after hearing both the sides.

9. At this stage, looking to short sentence, the applicant is entitled for suspension of jail sentence and for grant of bail. Hence, following order is passed:

ORDER

- (i) The criminal application is allowed.
- (ii) The substantive jail sentence imposed upon the applicant shall remain suspended pending disposal of the present criminal revision application.
- (iii) The applicant shall be released on bail on executing a P.R.Bond and one solvent surety before the Trial Court on the same terms and conditions on which she was released by the Trial Court.
- (iv) Hamdast is allowed.
- (v) The criminal application stands disposed of accordingly.

JUDGE

!! BRW !!

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