

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL INTERIM APPLICATION NO.1 OF 2020
IN
CRIMINAL APPEAL NO.271 OF 2020**

VAIBHAV KALIDAS MAGAR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ritesh Thobde, Advocate, for the Applicant.

Mr.A.R.Patil, APP for the Respondent – State.

**CORAM : PRASANNA B. VARALE &
V. G. BISHT, JJ.**

DATE : 8th SEPTEMBER 2020

P.C. :

1 Heard Mr.Thobde, the learned counsel for the applicant/appellant. The appeal is filed by the appellant/ original accused challenging the judgment and order dated 7th February 2020 passed by the learned Additional Sessions Judge, Solapur in Sessions Case No.86 of 2017, whereby the applicant/appellant is convicted and the sentenced is awarded to the

applicant/appellant. The said appeal is admitted by this court vide its order dated 12th March 2020.

2 The present application is filed with twofold prayers – firstly, suspension of sentence awarded to the applicant/appellant and secondly, enlargement of the applicant/appellant on bail during pendency of the appeal. Two grounds are raised in the application. The first ground is of an erroneous appreciation of evidence by the court below and the second ground is bleak chances of hearing the appeal in near future. In so far as the first ground is concerned, Mr.Thobde made an attempt to submit before this court that the court below committed an error in appreciating the evidence and, more particularly, the evidence of the Investigating Officer is not properly appreciated.

3 We are unable to accept the first submission for the reason that to accept this submission, it would require in depth assessment of the evidence or scrutiny of the evidence, and such an exercise is possible only at the stage of hearing of the appeal.

So far as the second ground is concerned, we are not inclined to accept this ground also, for the simple reason that in view of the order dated 12th March 2020, the Division Bench of this court (to which one of us – Justice V.G.Bisht was a party) while admitting the appeal, had granted liberty to the appellant to file private paper book, and then, subject to preparation and filing of the paper book, to list the appeal for final hearing on 29th June 2020, subject to time constraint and convenience of this court. At this stage, the learned counsel Mr.Thobde prayed for withdrawal of application and hearing of the appeal and then submitted that he would file the private paper book in the office on or before 14th September 2020.

4 In view of the submissions of the learned counsel, the present application is allowed to be withdrawn and liberty granted to the counsel for the applicant/appellant to file the private paper book on or before 14th September 2020.

5 In case the private paper book is filed in the office before 14th September 2020 and the private paper book is approved by the office and subject to providing copy of the paper book to the learned APP as well as copies of the judgments, if any, on which the learned counsel for the applicant/appellant would like to rely upon, being submitted in the office as well as supplied to the learned APP, the appeal be posted for final hearing on 15th September 2020.

6 The application is allowed to be withdrawn with liberty to file a fresh application, in case, the appeal is not heard by this court on the scheduled date, i.e. on 15th September 2020.

7 The application is disposed off as withdrawn.

(V. G. BISHT, J.)

(PRASANNA B. VARALE, J.)

Arti V.
Khatate

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