

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1521 OF 2020
IN
REVISION APPLICATION NO.213 OF 2020**

Ismail Bujurksaheb Mulla	]	Applicant
Vs.		
The State of Maharashtra	]	Respondent

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Mr. Ujwal R. Agandsurve, for the Applicant.
Ms. J.S. Lohokare, A.P.P, for Respondent-State.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 7TH JANUARY, 2021.
(Through Video Conferencing)

P.C.

1. Issue notice to the respondent-State. Learned A.P.P waives service on behalf of respondent-State.
2. Heard Mr. Agandsurve, learned Counsel for the applicant.
3. The applicant has been convicted by the learned Chief Judicial Magistrate, Solapur of the offence punishable under section 7(1) r/w Section 2(i.a) (a), 2 (i.a) (m) punishable under section 15 of the Prevention of Food Adulteration Act, 1954 and sentenced to suffer rigorous imprisonment for one year with fine of Rs.3,000/-, in default, simple imprisonment for three months.

He has been further convicted of the offence punishable under section 7 (v) r/w Rule 50 of the Prevention of Food Adulteration Rules, 1955 punishable u/s 16 of Prevention of Food Adulteration Act, 1954 and sentenced to suffer rigorous imprisonment for one year with fine of Rs.3,000/-, in default, simple imprisonment for three months.

The sentences were directed to run concurrently.

4. The applicant preferred an appeal before the Sessions Court. The learned Additional Sessions Judge, Solapur by the impugned judgment dated 31st October, 2020 partly allowed the appeal by acquitting the applicant of the offence punishable under section 7 (1) r/w section 2 (ia) (m) punishable under section 16 of the Food Adulteration Act. However, the learned Additional Sessions Judge confirmed the conviction recorded by the trial Court under section 7 (v) r/w Rule 50 punishable under section 16 (1) of the Prevention of Food Adulteration Act, 1954. But in his wisdom reduced the sentence of rigorous imprisonment from one year to simple imprisonment for three months. The sentence of fine has not been disturbed. The applicant, *inter alia*, was directed to surrender before the trial Court.

5. It is submitted by the learned Counsel that the applicant had surrendered before the learned Chief Judicial Magistrate, Solapur, on 5th December, 2020. The applicant has, thus, already undergone an imprisonment of one month out of three months imposed by the learned Additional Sessions Judge. It is submitted

that this is the first offence and the applicant has a good case on merits. It is also submitted that he has been acquitted of the major charge and he being the only earning member of his family, no purpose would be served in detaining him behind the bars till the revision is finally heard on merits. The learned A.PP has not seriously objected the submissions.

6. Having considered the submissions made at bar and in view of the fact that the sentence awarded by the Lower Appellate Court is just for three months, out of which the applicant has already undergone one month's imprisonment, it would be just and proper in the interest of justice to release him on bail, pending the hearing of the revision application.

7. In view of the above, following order is expedient;

(a) Pending the hearing and final disposal of the revision, the applicant be released on furnishing a fresh P.R bond in the sum of Rs.10,000/-with one surety in the like amount to the satisfaction of the learned Chief Judicial Magistrate, Solapur;

(b) The applicant shall not leave the jurisdiction of the Chief Judicial Magistrate, Solapur without seeking prior permission and shall attend the Court as and when directed.

8. The application stands disposed of.

9. This order will be digitally signed by the Personal Assistant of this Court. All concerned shall act on production by fax or e-mail of a digitally signed copy of this order.

[PRITHVIRAJ K. CHAVAN, J.]