

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

***INTERIM APPLICATION NO.1392 OF 2021
IN
CRIMINAL APPEAL NO. 447 OF 2021***

Taufiq Paigamali Nawaz ...Applicant
Versus
The State of Maharashtra ...Respondent

***WITH
INTERIM APPLICATION NO.1473 OF 2021
(NOT ON BOARD)
IN
CRIMINAL APPEAL NO. 478 OF 2021***

Mohd. Magdum Danish Ali Jalal
@ Shafiq & Anr. ...Applicants
Versus
The State of Maharashtra ...Respondent

Mr. Aniket Vagal for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent–State

***CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
WEDNESDAY, 16th JUNE 2021***

P.C. :

1 Interim Application No. 1473/2021 is not listed on board today.
The same is taken on board and heard with Interim Application No.
1392/2021, which is listed at serial No. 28 on today's board.

2 Heard learned counsel for the parties.

3 By these applications, the applicants seek suspension of their sentences and enlargement on bail, pending the hearing and final disposal of their appeals.

4 The applicants alongwith other co-accused, vide judgment and order dated 19th March 2021 passed by the learned Additional Sessions Judge, Greater Mumbai, in Sessions Case No.712 of 2014, have been convicted and sentenced as under :-

- for the offence punishable under Section 489-B of the Indian Penal Code to suffer rigorous imprisonment for 10 years and to pay fine of Rs.10,000/- each, in default, to undergo further rigorous imprisonment for 1 year;

- for the offence punishable under Section 489-C of the Indian Penal Code to suffer rigorous imprisonment for 7 years and to pay fine of Rs.5,000/- each, in default, to undergo further rigorous imprisonment for 6 months;

- for the offence punishable under Section 489-E of the Indian Penal Code, to pay fine of Rs.100/- each, in default, to undergo further simple imprisonment for 3 days;
- for the offence punishable under Section 120-B of the Indian Penal Code to suffer rigorous imprisonment for 10 years and to pay fine of Rs.10,000/- each, in default to undergo further rigorous imprisonment for 1 year;

The applicants were acquitted of the offence punishable under Sections 15(1)(iii)(a) punishable under Section 16 of the Unlawful Activities (Prevention) Act and Section 18 of the Unlawful Activities (Prevention) Act.

All the substantive sentences were directed to run concurrently.

5 Learned counsel for the applicants submits that the applicants have been in custody since June, 2014 for about 7 years. He submits that the applicants have already undergone 3/4th of the sentence. He submits that apart from the aforesaid offence, the applicants have no other antecedents. He submits that considering the fact that the applicants have undergone 3/4th of the sentence awarded by the Trial Court for the offences

punishable under Sections 489-B, 489-C and 489-E of the Indian Penal Code, the applicants be enlarged on bail. Learned counsel for the applicants submits that similarly placed co-accused i.e. Mohamed Salman Mohd. Sharif Shaikh and Raghavendra Ramnivas Singh's sentences have been suspended and they have been enlarged on bail and as such, seeks parity with the said co-accused.

6 Having regard to what is stated aforesaid, that the applicants have undergone more than 3/4th of the sentence awarded to them, the applicants' sentence is suspended and they are enlarged on bail, pending the hearing and final disposal of their appeals, on the following terms and conditions :-

ORDER

- i) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount;
- ii) The applicants shall report to the trial Court, once in four months on the day/date specified by the trial Court, till their appeals are finally disposed of;

iii) The applicants shall keep the trial Court informed of their current addresses and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

7 Both the applications are accordingly disposed of.

8 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.