

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

**INTERIM APPLICATION NO.3042 OF 2021
IN
CRIMINAL APPEAL NO.1017 OF 2021**

Dashrath Rambhau Amate

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Amit Icham i/b. Mr. Vivek Arote for the Applicant

Mr. N.B. Patil, APP for Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th DECEMBER, 2021.

P.C.:-

1. At the outset, learned counsel for the Applicant seeks leave to amend the prayer clause so as to add the prayer for suspension of substantive sentence, pending hearing of the appeal. Leave is granted. Amendment to be carried out forthwith.

2. This is an application under Section 389 of Code of Criminal Procedure, 1973 for suspension of substantive sentence imposed on the Applicant vide judgment dated 13/10/2021 passed by the learned Sessions Judge, Nashik in Sessions Case No.274 of 2016 and for enlargement on bail.

3. By the impugned judgment, the Applicant who was accused No.1 in the said sessions case has been convicted for offence punishable under Section 307 of the IPC and Section 37(1) r/w. 135 of the Bombay Police Act. He has been sentenced to undergo rigorous imprisonment for four years and to pay fine of Rs.1000/- i/d. to suffer rigorous imprisonment for three months. He has also been sentenced to undergo rigorous imprisonment for five months and to pay fine of Rs.500/- i/d to suffer rigorous imprisonment for one month for offence punishable under Section 37(1) r/w 135 of the Bombay Police Act.

4. The Applicant has been sentenced to undergo maximum term of rigorous imprisonment for four years. The appeal is already admitted. Considering the large pendency of the cases and the present situation arising from Covid-19 pandemic, final hearing of the appeal will take considerable time. Moreover, the Applicant was on bail pending trial and has not misused the liberty.

5. In view of the above facts and considering the nature of accusations, in my considered view this is a fit case for suspension of substantive sentence pending disposal of the appeal. Hence, the

application is allowed on following terms and conditions:-

- (i) The substantive sentence imposed on the Applicant vide judgment dated 13/10/2021 passed by the learned Sessions Judge, Nashik in Sessions Case No.274 of 2016 is suspended pending disposal of the appeal.
- (ii) The Applicant is ordered to be released on bail on furnishing bail bonds in the sum of Rs.15,000/- with one or two sureties to the like amount;
- (iii) The Applicant shall report to the Trial Court, once in three months on the day/date specified by the Trial Court, till the appeal is finally disposed of.
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of resident or mobile details, if any, from time to time.
- (v) 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.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)