

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

903 CRIMINAL APPLICATION NO.2534 OF 2021

SANTOSH CHABILDAS CHAUDHARY
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Girish V. Wani.
APP for Respondent/State: Mr. R. D. Sanap.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 04th October, 2022.

Per Court:

. Heard finally with consent of both the sides.

2 The applicant is challenging the order passed by the learned Additional Sessions Judge, Jalgaon below Exhibit-52 in Criminal Appeal No.99 of 2013 dated 13th October, 2021, whereby his application for stay to the order of conviction is rejected.

3 Heard Mr. Girish Wani, learned counsel for the applicant and Mr. Sanap, learned APP for the respondent / State.

4 Mr. Wani, learned counsel for the applicant invited my attention to the order passed by the learned Additional Sessions Judge, Jalgaon below Exhibit-9 in Criminal Appeal No.96 of 2013 and Exhibit-13 in Criminal Appeal No.99 of 2013 dated 25th September,

2014 as well as the order passed below Exhibit-52 in Criminal Appeal No.99 of 2013 dated 13th October, 2021. Mr. Wani, learned counsel for the applicant submitted that the learned Additional Sessions Judge has not at all applied his judicial mind while rejecting the application. He has rejected the application only because in the past similar kind of application came to be rejected by the same Court. He submitted that whatever grounds raised in the application are not at all considered by the learned Additional Sessions Judge, Jalgaon. The applicant intends to contest the election in near future. He has, therefore, prayed for stay to the order of conviction and same is not considered on its own merits.

5 The learned counsel for the applicant also invited my attention to the order passed by the learned Judicial Magistrate First Class, Jalgaon in Regular Criminal Case No.437 of 2011 dated 17th August, 2013. He submitted that though the applicant is convicted under various sections of the Penal Code, that order is challenged before the appellate Court / Sessions Court and the appeal is still *sub-judice*. He, therefore, prayed that the impugned order passed by the learned Additional Sessions Judge below Exhibit-52 in Criminal Appeal No.99 of 2013 dated 13th October, 2021 so also order passed below Exhibit-9 in Criminal Appeal No.96 of 2013 and Exhibit-13 in Criminal Appeal No.99 of 2013 dated 25th September, 2014, may be

quashed and set aside and the order of conviction passed by the learned Magistrate in Regular Criminal Case No.437 of 2011 against the present applicant may be stayed.

6 Mr. Sanap, learned APP for the State opposed to allow such prayer. He also invited my attention to the earlier orders passed by the learned Additional Sessions Judge, Jalgaon. He submitted that the learned Additional Sessions Judge, Jalgaon has considered all the facts of the case and after applying judicial mind, was pleased to reject the application. He submitted that the order of stay of conviction can be passed only under extraordinary circumstances and it is not a routine. He submitted that there are no extraordinary circumstances to stay the conviction.

7 I have considered the submissions of Mr. Wani, learned counsel for the applicant and Mr. Sanap, learned APP for the State.

8 For time and again the Honourable Supreme Court has made it clear that the conviction can be stayed by the higher Court only under extraordinary circumstances and it is not a routine. A useful reference can be made in case of *K.C. Sareen Vs. C.B.I., Chandigarh*, reported in, *2001 AIR (SC) 3320*.

9 It is revealed during the course of argument that no elections for MLA or any other public body is declared by the State Election Commission or any competent authority. There is no extreme urgency to consider the prayer for stay to the conviction order passed by the Trial Court. At the most the appeal, which is of the year 2013 pending before the appellate Court can be expedited so that in near future the applicant may get the result. It may serve the purpose.

10 Having regard to the above reasons and discussion, the following order is passed:

ORDER

- I. The application is disposed of as under:
- II. The learned Additional Sessions Judge, Jalgaon, is hereby requested to decide Criminal Appeal No.99 of 2013 within a span of two months from the date of receipt of writ of this Court.
- III. Inform to the concerned Court accordingly for information and necessary compliance.
- IV. The application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]