

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

INTERIM APPLICATION NO.545 OF 2022

Sanjay Vijay Joshi

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....

Mr.C.K. Pendse i/b. Mr.Prashant D. Jadhav, Advocate for the Applicant.

Mr.s.H. Yadav, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 18, 2022.

P.C. :

The applicant was convicted vide judgment and order dated 28th February, 2019, by the Court of Metropolitan Magistrate 64th Court, Esplanade, Mumbai, for the offence punishable under Section 408 of IPC and sentenced to suffer simple imprisonment for six months and to pay fine of Rs.2000/-. The appellate Court dismissed the Appeal preferred by the applicant by order dated 12th January, 2022.

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2 Learned counsel for the applicant, on instructions, submits that the applicant has been taken in custody on 12th January, 2022, and he is in custody since then. It is further submitted that

there is no evidence to prove the charge under Section 408 of IPC. It is not established that 1200 US Dollars were handed over to the applicant or that he had received the amount of Rs.52,360/-, from the person in exchange of the US Dollars. The prosecution has not able to produce any writing/documents in respect to the said translation of handing over the amount to the applicant. The applicant is in custody from more than a month.

3 Learned APP submitted that there is concurrent finding of both the Courts below. The prosecution has established charge against the applicant.

4 Apparently, the applicant was on bail during the trial and even during the pendency of Appeal.

5 The submissions made by the learned counsel for the applicant requires consideration. In this circumstances, case for suspension of sentence and grant of bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

(i) Interim Application 545 of 2022, is allowed;

- (ii) The sentence of imprisonment imposed vide judgment and order dated 28th February, 2019, passed by the Court of Metropolitan Magistrate 64th Court, Esplanade, Mumbai, and, confirmed by the Court of Sessions vide judgment and order dated 12th January, 2022, passed in Criminal Appeal No.611 of 2019, is suspended and the applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.20,000/-, for the period of 10 weeks, in lieu of surety;
- (iv) Interim Application No.545 of 2022, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)