

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1632 OF 2022

IN

CRIMINAL APPEAL NO. 555 OF 2022

Anil Hanumant Gholap

... Applicant/Appellant

V/s.

The State of Maharashtra

... Respondent

Mr.Viresh V. Purwant for Applicant/Appellant.

Mr.R.M. Pethe, A.P.P. for Respondent-State.

PSI Mr.Ramchandra Chaure, Sion Police Station is present.

CORAM : A.S. GADKARI, J.

DATE : 7th June 2022.

PC. :

1. This is an application for suspension of sentence and releasing the Applicant on bail.

2. Applicant is convicted under Section 353, 332 & 504 of the Indian Penal Code (for short, "I.P.C.") and is sentenced to suffer rigorous imprisonment for 4 years under Section 353; for 4 years under Section 332 and for 6 months under Section 504 of I.P.C..

3. Mr.Purwant, learned Advocate appearing for Appellant submitted that, the date of commission of the alleged offence is 11th March 2011. That amendment to Sections 353, 332 of the I.P.C. thereby increasing the term of

sentence to 5 years has been brought into statute by Maharashtra Amendment Act of 2017, which came into effect from 7th June 2018. He submitted that, the said Amendment Act is prospective in nature and has no retrospective effect is given by the Legislature. He submitted that, the Trial Court has erred in not appreciating the said important aspect of the matter and has awarded sentence of 4 years under Sections 353 & 332 of I.P.C. upon the Appellant. He submitted that, the Appellant was on bail throughout the trial and as per his instructions, there is no report of commission of breach of any of the conditions imposed upon him in the interregnum.

4. In view of the above and after taking into consideration the fact that, the date of alleged offence was 11th March 2011, when the maximum sentence prescribed under the said Sections was 2 years, the substantive sentence imposed upon the Applicant can be suspended and he can be released on bail during the pendency of the present Appeal.

5. Hence, the following Order :-

- (i) Applicant/Accused be released on bail in C.R. No. 111 of 2011 registered with Sion Police Station, Mumbai, on his furnishing P.R. bond of Rs.25,000/- with one or two separate solvent local sureties in the same amount.
- (ii) The procedure of furnishing of P.R. bond and solvent local sureties be completed within a period of 12

weeks from today.

- (iii) Till the Applicant complies with the procedure of furnishing P.R. bond and solvent sureties as directed above, Applicant is permitted to deposit cash bail of Rs.25,000/- with the Trial Court.
- (iv) During the pendency of the appeal, the Applicant is directed to attend Sion Police Station on every first Monday of the month initially for a period of 1 year and thereafter on every first Monday of every 3rd month, i.e. 4 times in a year, till final hearing of present appeal.
- (v) Applicant shall not tamper or pressurise the prosecution witnesses for withdrawal or compromising the case lodged by the informant.

6. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]

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