

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.301 OF 2004

BHAUSAHEB PARASRAM SATHE

VERSUS

STATE OF MAHA and ANR

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Advocate for Applicant : Mr. L. K. Pradhan

APP for Respondent: Mr. S. B. Narwade

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CORAM : S. G. MEHARE, J.

DATE : 22.02.2023

ORAL JUDGMENT :

1. The report of the District Probation Officer be made part of the original record.
2. Heard the learned counsel for the applicant and the learned A.P.P for respondent.
3. The applicant-accused has been convicted for the offence punishable under Sections 279, 427 the Indian Penal Code with a fine of Rs. 1,0000/- and Rs. 5000/- each. The sentence was confirmed by the learned 2nd Adhoc Additional Sessions Judge, Aurangabad.
4. The learned counsel for the applicant has vehemently argued

that there are two concurrent judgments against the applicant. The applicant is now running above 60 years. He is suffering from physical disablement. Considering his career, instead of sentencing him at once the benefit of Probation of Offenders Act may be extended. Since the prayer for benefit of Probation of offenders was made, the report from the District Probation officer Aurangabad was called through the learned Judicial Magistrate F.C. Aurnangabad. The said report suggests to grant the benefit under Section 4 (1) (3) of the Probation of Offenders Act 1958.

5. The learned counsel for the applicant, to bolster his submission, he relied on the case of *Paul George Versus State of NCT of Delhi (2008) 4 Supreme Court Cases 185* wherein the Hon'ble Supreme Court has observed that the litigation has been going on for last twenty years. We, therefore, while disposing of the appeal ends of justice would be met if the appellant is released on probation under Section 4 of the Probation of Offenders Act, 1958 on conditions to be imposed by the trial Court.

6. In a nutshell, for the offence punishable under Section 279 of the Indian Penal Code, the benefit of the Probation of Offenders Act has been extended.

7. As far as the merit of the case is concerned, the applicant did not satisfy the Court that there are substantial grounds to warrant interference in the impugned judgments and orders of conviction. However, the present litigation has been going on for last twenty years. As per the Probation of Offenders Act, the applicant is old age and suffering from physical disablement. Therefore, the Court is of the view that the benefit of Section 4 of the Probation of Offenders Act, 1958 may be extended. Hence, the following order.

- i). The conviction passed by the learned Judicial Magistrate F.C. Court No.6 Aurangabad in Summary Criminal Case No. 2539 of 1999 dated 6.9.2022 and confirmed by the learned 2nd Adhoc Additional Sessions Judge Aurangabad in Criminal Appeal No. 76 of 2002 dated 14.07.2004 is maintained. However, having regard to the circumstances of the case, the nature of the offense and the character of the accused, it is expedient to release him on Probation of good conduct, therefore, instead of sentencing him at once to the imprisonment, he be released on entering into the bond with one surety of Rs. 5,000/- to appear and receive sentence as and when he is called upon, during the period of one year from executing bond & surety and in the meantime, he should keep peace and be of good behaviour.

- iii). The applicant shall furnish the bond and surety bond before the learned Judicial Magistrate F.C. Court No.6, Aurangabad within a week from today.
- iv) Record and proceedings be returned to the learned Judicial Magistrate F.C. Court No.6, Aurangabad.
- v). In above terms the revision stands disposed of.
Rule is discharged.

(S. G. MEHARE)
JUDGE

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