



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3208 OF 2023
IN
APEAL/2/2021

Ravising Mayasing Bavri,
Age : 30 years, Occu. Labour,
R/o. Rajiv Gandhi Nagar Zopadpatti,
Jalgaon, Tq. and Dist. Jalgaon.

... Applicant
(Orig. Accused No.2)

Versus

The State Of Maharashtra

... Respondent

...
Advocate for Applicant : Mr. Sudarshan J. Salunke
APP for Respondent - State : Mr. A. M. Phule
...

CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATED : 31st OCTOBER, 2023

PER COURT :

1. Present application is the second application for suspension of sentence. The earlier application filed by the applicant came to be withdrawn by him on 18.02.2021 after instructions from the applicant itself. Learned Advocate appearing for the applicant submits that it was after the disinclination was shown by this court to grant the similar relief in Criminal Application No.2 of 2021.

2. We have heard learned Advocate Mr. Salunke for the applicant, who submits that, since the date of framing of charge till the operative order was pronounced, the learned trial Court has

committed illegality. When there is conviction under sections 143, 147 and 148 of Indian Penal Code (IPC), then it could not be also read with section 149 of IPC. No specific role was attributed to the present applicant to hold him guilty under section 302 of IPC by invoking section 149 of IPC. He also submits that the applicant is in jail since long and since his appeal is of the year 2021 it may take some time to decide.

3. All these submissions appears to have been made by learned Advocate appearing for the applicant, when his Criminal Application No.2 of 2021 was heard and then he sought the withdrawal, after taking instructions from the applicant when disinclination was shown.

4. Under the said circumstance, this Court cannot sit in appeal over its own order. No fresh ground to take the matter out of turn has been mentioned. This court is presently considering the jail appeals of the year 2015 to 2018 on priority basis. Hence, the application stands rejected.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)