

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1195 OF 2023****IN****CRIMINAL APPEAL NO. 370 OF 2023**

1. Rajesh @ Daya Ramesh Chauhan

2. Jatashankar Dinanath Pandey

... Applicants

Versus

The State Of Maharashtra

...Respondent

....

Mr. Ravi Dwivedi Advocate for Applicants.

Mr. Y. M. Nakhwa, APP for the Respondent – State.

PSI. Sawant D.C.B. CID Unit XI. is present.

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CORAM : PRAKASH D.NAIK, J.**DATE : 9th JUNE, 2023.****P.C.:-**

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal preferred by the applicant challenging the judgment and order dated 13th February 2023 passed by learned Additional Sessions Judge, Greater Mumbai convicting the Applicants for offences punishable under Sections 399 and 402 of Indian Penal Code. On both the counts, applicants are sentenced to suffer rigorous imprisonment of fine years which are directed to run concurrently.

2. Learned Advocate for the Applicants submitted that, the applicant No.1 is in custody for a period of two years whereas the Applicant No.2 is in

custody for a period of three years. The prosecution case suffers from serious infirmities. The applicants were arrested on suspicion. The person who was to be allegedly robbed by the accused could not be traced. The appeal may not come up for hearing immediately.

3. Learned APP submitted that, the offence is of serious nature. Reliance is placed on the affidavit-in-reply filed by Investigating Officer and it is contended that, there are criminal antecedents against both the applicants which includes the case registered for offence under Section 302 of I.P.C.

4. In rejoinder, learned Advocate for the applicants submitted that, in case relating to the offence under Sections 302, 307 of I.P.C. registered with Mira Road Police Station vide C.R. No.153 of 2015, the applicant was granted bail by this Court vide order dated 25th April 2017. Reliance is placed on the copy of order passed by this Court. It is submitted that, all the antecedents referred to in the affidavit-in-reply filed by prosecution are the incidents which had occurred prior to registration of the present crime.

5. It is pertinent to note that, the sentence of imprisonment is of five years out of which the applicants have undergone imprisonment of two years and three years respectively. Appeal may not be heard expeditiously. Considering all the aforesaid circumstances, sentence of imprisonment can be suspended.

ORDER

(i) Interim Application No. 1195 of 2023 is allowed.

- (ii) The substantive sentence of imprisonment imposed vide judgment and order dated 13th February 2023 passed by the Additional Sessions Judge, Greater Bombay in Sessions Case No.120 of 2016 is suspended and the applicants are directed to be released on bail on executing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.
- (iii) The applicants shall report concerned police station once in six months on first Saturday of the month between 11.00 am to 01.00 p.m. till final disposal of the Appeal.
- (iv) Interim Application stands disposed off.

(PRAKASH D. NAIK, J.)