

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1846 OF 2023
IN
CRIMINAL APPEAL NO.924 OF 2023

Mukesh Rajendra Shetty @ Shettiyar .. Appellant
Versus
State of Maharashtra .. Respondent

Mr.Ravi Dwivedi for the applicant.
Mr. Y.M. Nakhwa, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 11th OCTOBER, 2023

P.C:-

1 The appellant has preferred Criminal Appeal no. 924 of 2023, on being convicted as accused no.3 in Sessions case No. 120 of 2016 for committing an offence punishable under Section 399 and 402 of IPC. He is sentenced to suffer RI for 5 years and a fine of Rs. 1000/-, on being convicted under section 399 and no separate punishment is awarded, despite the conviction under Section 402. There is also a conviction for commission of offence punishable under Section 3 r/w Section 25 of the Arms Act, and separate sentence is imposed on this count , as well as on being convicted under the provisions of Maharashtra Police Act.

The appeal of the appellant is admitted on 30/08/2023.

2 In the pending appeal, an application is taken out seeking suspension of sentence and securing his release on bail.

The counsel for the applicant has invited my attention to the two distinct orders passed on the applications filed by the co-accused i.e. Interim Application No. 1195 of 2023, filed by accused nos.1 and 4 and Interim Application No. 1661 and 1662 of 2023 filed by accused no.2 and the orders passed by Justice P.D. Naik on the two applications on 9/6/2023 and 15/06/2023 are placed before me.

Perusal of the orders would reveal that Justice Naik has considered the application in great detail and has also appreciated the argument advanced on behalf of the applicants about the periods being spent in custody and the facts that the applicants were arrested on suspicion and the person, who was allegedly robbed by the accused could not be traced. Another important aspect that is the time, in hearing of the appeal, which has also weighed before the Court, when it granted the application.

3 I see no reason why the present applicant shall stand in a different footing than the other three co-accused, who stand convicted for the same offences and awarded a similar sentence. As far as the present applicant is concerned, he is incarcerated for last 18 months and so was the case in case of the other accused persons.

Drawing parity with the other co-accused persons for the similar reason that the appeal is not likely to be heard shortly, I deem it appropriate to pass the following order:

ORDER

- (i) Interim Application No. 1846 of 2023 is allowed and disposed off.
- (ii) The substantive sentence of imprisonment imposed vide Judgment and Order dated 13/02/2023 in Sessions Case No.120 of 2016 by Additional Sessions Judge, Greater Bombay is suspended.
- (iii) The applicant Mukesh Rajendra Shetty @ Shettiyar is directed to be released on bail in connection with CR No. 94 of 2015 (Sessions Case No.120 of 2016) registered with Kandivali Police Station, executing P.R bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (iv) Applicant shall report to the concerned police station once in six months on first Monday of the month between 4:00 p.m and 5:00 p.m till final disposal of the appeal.

(SMT. BHARATI DANGRE, J.)