

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO. 2386 OF 2023
IN
CRIMINAL APPEAL NO. 746 OF 2023**

Shatrughna Kaluram Madhavi ...Appellant
Versus
State Of Maharashtra ...Respondent

....

Mr. Jyotiram S. Yadav, Advocate for the Appellant.

Mr. Y. Y. Dabake, APP for the Respondent – State.

**CORAM : PRAKASH D. NAIK, J.
DATE : 5th JULY, 2023.**

PER COURT:

1. The Applicant is convicted for offence punishable under Sections 3 r/w Section 25(1-B) (a) of the Arms Act, 1959 and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/-. The Applicant is also convicted for offence under Section 37(1) r/w Section 135 of the Maharashtra Police Act, 1951 and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.5,000/-. Both the sentences are directed to run concurrently. The Applicant was acquitted for the offence punishable under Section 399 of Indian Penal Code (for short 'IPC') and Section 402 of IPC.

2. The trial Court has suspended the sentence of imprisonment on the date of conviction till 8th June, 2023.

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3. Learned Advocate for the Applicant submitted that the Applicant was on bail during the trial. He has not misused the facility of bail. The sentence is of short term.

4. Learned APP on instructions submitted that three cases were registered against Applicant. Amongst them two cases were registered for offence under Section 399 of IPC. There is sufficient evidence against the Applicant.

5. Learned Advocate for the Applicant submitted that two cases were registered against Applicant for offence under Section 399 of IPC includes the present case wherein the Applicant is acquitted for offence under Section 399 of IPC and convicted only under the Arms Act. The second case is pending before the concerned Court and third case is registered under Section 324 of IPC.

6. The sentence is of short term. The appeal may not come up for hearing immediately. The sentence has been suspended by the trial Court for temporary period. The Applicant was on bail during trial. The discrepancies in evidence urged by Applicant needs to be considered while hearing appeal. The co-accused had preferred Appeal No.605 of 2023 and Interim Application No.1912 of 2023. The interim application for suspension of sentence has been allowed by order dated 5th June, 2023. Hence, case for suspension

of sentence of imprisonment pending appeal is made out.

ORDER

- i. Interim Application No.2386 of 2023 is allowed;
- ii. During the pendency of Criminal Appeal No.746 of 2023, of the sentence of imprisonment imposed vide Judgment and order dated 8th May, 2023 passed by learned Additional Sessions Judge, Kalyan, in Sessions Case No.255 of 2012 is suspended and the Applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs.20,000/- with one or more surety in the like amount;
- iii. The Applicant shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;
- iv. In the event, there are two consecutive defaults in attending the trial Court, the said fact may be brought to the notice of this Court and in such eventuality, the prosecution will be at liberty to prefer an application for cancellation of bail;
- v. Interim Application stands disposed off accordingly.

(PRAKASH D. NAIK, J.)