



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

916 CRIMINAL WRIT PETITION NO. 1701 OF 2023

GULABSING S/O ANANDRAO GHOTI

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for the Petitioner : Mr. Kendre Namdev D

APP for Respondent/State : Ms.V.S. Chaudhari

...

CORAM : **SHIVKUMAR DIGE, J.**

DATE : 18th July, 2024.

P.C.:

1. By this writ petition, the petitioner is challenging the order dated 30th October, 2023 passed by the Additional Sessions Judge No-4, Latur below Exhibit-4 and Exhibit-5 in Criminal Appeal No. 23 of 2023.

2. It is contention of the learned counsel for the petitioner that the petitioner has been convicted by the trial Court for the offence punishable under sections 409 and 201 of the Indian Penal Code and sentenced to suffer simple imprisonment for four years. The learned counsel further submitted that the petitioner has undergone total sentence of two years and nine months. The petitioner was behind bar more than half of the sentence. The petitioner had filed application before the Sessions Court for suspension of the sentence but the Sessions Court has rejected the said application on the ground that considering the allegations in the F.I.R., there are serious allegations against the petitioner and the petitioner is government servant, which is erroneous, hence requested to allow the writ petition.

3. It is contention of the learned APP that the allegations against the petitioner are serious. The petitioner has been convicted by the trial Court on the basis of evidence produced before the Court. If sentence is suspended the petitioner may abscond. The Sessions Court has passed well reasoned order. No interference is required in it, hence requested to dismiss the writ petition.

4. I have heard both the learned counsel. Perused the impugned order.

5. The petitioner has been convicted by the trial Court. The petitioner has challenged the said order before the Sessions Court and has filed application for suspension of sentence. The said application is rejected by the Sessions Court on the ground that in the contents of the F.I.R., there are serious allegations against the petitioner and observing that there is no material on face of record to show that conviction may not be sustainable. In my view, the petitioner has undergone half of the sentence imposed upon him. It may take time to decide the appeal filed by the petitioner. Considering this fact, I pass the following order :-

ORDER

- (i) The writ petition is allowed.
- (ii) The impugned order passed by the Sessions Court, Latur below Exhibit-4 and Exhibit-5 in Criminal Appeal No.23 of 2023 is quashed and set aside.

(iii) Sentence awarded to the petitioner in Regular Criminal Case No.134 of 2018 is suspended till hearing of the appeal pending before the Sessions Court.

[SHIVKUMAR DIGE, J.]

sga