

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1320 of 2024
IN
CRIMINAL REVISION APPLICATION NO.168 of 2024**

Raj Kumar Singh	...Applicant
VS.	
State of Maharashtra	...Respondent

Mr. Niranjan Mundargi i/by Mr. Prasanna A. Bhangale, Advocate for Applicant. Mr. V.N. Sagare, APP for the State.
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CORAM : S. M. MODAK, J.
DATE : 1st APRIL 2024

P. C. :-

1. Heard the learned counsel for the Applicant and the learned APP for the State.
2. The Applicant being an occupier of the factory, was convicted by the Chief Judicial Magistrate, Raigad-Alibag in S.C.C. No. 723/2014 on 24th September, 2018, he was charged for commission of two offences as follows:

- (a) Contravention of Section 21(1) (iv) (c) of Factories Act and
- (b) Contravention of Section 7-A(2) (a) of Factories Act.

He was acquitted for later offence, but convicted for the earlier offence as simple imprisonment for three months and to pay fine of Rs.25,000/-, in default of payment of fine, to suffer S.I. for one month. Fine is already deposited. His appeal is dismissed and conviction is confirmed by the appellate court and now taken into custody.

3. Mr. Mundargi invited my attention to the copy of the complaint, copy of the evidence of the Complainant and worker by name Mr. Deshmukh. He invited my attention to the findings given by both the Courts below.

4. It is true that as per Section 7-A(2) (a), the occupier is bound to make provision for safety of the workers. This will be in addition to the liability under

sub-section (1). For this offence, he is acquitted. Whereas, Section 21(1)(iv) (c) talks about fencing of dangerous part of machinery.

5. The contention is, while doing the maintenance of the belt, fencing was removed, but unfortunately, it was not erected by one Manjunath Swami. Contention is that the basic responsibility of erecting fencing is fulfilled and if the person doing work regularly, has not fulfilled his responsibility, the occupier cannot be held responsible. Further contention is if there is an acquittal for the offence referred above, there cannot be a conviction for another section.

6. I find that arguable case is made out for suspension of sentence.

7. Hence, the following order.

ORDER

(i) The substantive sentence of imprisonment imposed for the offence punishable under Section 21(1) (iv) (c) of Factories Act, 1948 by the Court of Chief

Judicial Magistrate, Raigad - Alibag in S.C.C. No. 723/2014, be suspended during the pendency of the Revision on furnishing Personal Bond and Surety Bond of Rs.20,000/- before the trial Magistrate.

(ii) The Applicant is permitted to furnish cash bail of Rs.20,000/- for a period of four weeks and then surety be furnished.

(iii) Considering the sentence which is a short sentence, hearing of the Revision is expedited.

(iv) Let the private paper-book be provided, consisting of oral and documentary evidence tendered before the trial Court within a period three weeks.

(v) Parties to act on an authenticated copy of the Order.

(vi) Interim Application stands disposed of.

(v) Stand over to 30th April, 2024 in Revn No. 168/2024.

[S. M. MODAK, J.]