

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
INTERIM APPLICATION NO. 2601 OF 2023  
WITH  
INTERIM APPLICATION NO. 2600 OF 2023  
IN  
CRIMINAL APPEAL NO. 806 OF 2023

Vaibhav @ Babya Madhukar Kadam ... Applicants/Appellants  
and Ors.

V/s.

State of Maharashtra ... Respondent

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GAIKWAD

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Mr. Abhaykumar Apte, for the Appellants.

Mrs. M.R. Tidke, APP, for the Respondent / State .

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CORAM : KISHORE C. SANT, J.

DATE : 18TH JANUARY 2024.

PC:

1. Heard learned Advocate for the Appellant and learned APP  
for the Respondent/State.

2. This application is preferred by the Original Accused Nos.  
3, 4 and 5 who are convicted by learned Sessions Judge, Greater  
Bombay in Sessions Case No. 317 of 2017 for the offence punishable  
under Section 395 of Indian Penal Code. All the accused are sentenced

to suffer imprisonment for a period of six years and to pay fine of Rs. 3000/- each and in default, to suffer further imprisonment of three months.

3. The submission of learned Advocate for the applicant is that out of five accused two accused i.e. accused nos. 1 and 2 have already been released on bail by this Court. He further submits that accused no. 5 i.e. present applicant no. 3 was in jail during the trial. He was arrested in February 2017 and was in jail during the trial till he was released on bail pursuant to order passed by this Court dated 24<sup>th</sup> March 2021. From the Judgment it is seen that he again taken in custody along with other two applicants and thus he is in jail for more than five years and two months. Thus learned Advocate for the applicant pressed for suspension of sentence and release the applicant on bail.

4. Learned APP submits that the trial Court has rightly passed the judgment and convicted all these applicants. There is a specific role attributed to each of the accused. The accused no. 3 is even seen in the CCTV footage. There are six other offences pending against the accused at the time of grant of bail by this Court in March 2021. Thus considering this position this is not a fit case to grant bail.

5. The Court has considered the submission of learned Advocate for the applicant and has gone through the earlier order passed by this Court in Bail Application No. 1554 of 2020 dated 24<sup>th</sup> March 2021. It is seen that applicant no. 3 is involved in other cases

also. However, considering the fact that he has suffered more than five years and two months sentence out of six years, his case needs to be considered.

6. On this ground this Court has inclined to grant bail to applicant no. 3. So far as applicant nos. 1 and 2 is concerned, this Court have not inclined to grant bail and they are not suffered even half of the sentence. Hence, in view of the above, I pass the following order:

### ORDER

- i) The application is partly allowed.
- ii) Substantive sentence awarded by the learned Sessions Judge, City Civil Court, Greater Mumbai in Sessions Case No. 317 of 2017 is suspended.
- ii) The applicant No.3 shall be released on bail on furnishing P.R. bond of Rs. 30,000/- and one or more solvent sureties in the like amount. Subject to condition that if the amount of fine is not deposited the same shall be deposited in the trial Court.
- iv) The appellant shall mark his presence before the concerned Police Station once in a month i.e. on every Sunday as per the convenient time of the Police Station Incharge.
- vi) If applicant is found involved in any other offence henceforth his bail shall liable to be cancelled.

vii) The applicant shall keep informed concerned Police Station about his residential address, mobile number etc and other contact details till the final disposed of the appeal.

7. The application stands disposed of.

8. Sofar as other applicant nos. 1 and 2 are concerned they are at liberty to file application after completing half of their sentence.

9. In view of order passed in Criminal Application No. 2601 of 2023, Criminal Application No. 2600 of 2023 does not survive and same is accordingly disposed off.

(KISHORE C. SANT, J)