

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.4696 OF 2023

IN

CRIMINAL APPEAL NO.111 OF 2024

Shaikh Mohammad Samir Fakir

Ahemad @ Honey Singh

: Applicant

Vs.

The State of Maharashtra & Ors.

: Respondents

Adv. Nikhil G. Hire a/w Adv. Ashish Shrivastav, for the Applicant.

Adv. M. R. Tidake, APP for the State.

CORAM : KISHORE C. SANT, J.

DATE : 30TH APRIL, 2024

PC. :

1. This Application is preferred seeking suspension of sentence and release of the Applicant on bail. The Applicant is held guilty of the offence punishable under Section 420 read with section 34 of the Indian Penal Code and. He is directed to suffer R.I. for 3 years and fine of Rs.5,00,000/- in default of payment of fine to undergo simple imprisonment for period of further 6 months.

2. Learned Advocate for the Applicant submits that this Applicant has not played any major role in the alleged crime. He has not received

any amount in any of the transactions the person namely Tahsina, who received the actual amount from the persons who were deceived is also released on bail by suspending the sentence by this Court by order dated 2nd November, 2023. Tahsina was awarded a sentence of 7 years and fine of Rs.11,00,000/-. He thus submits that the amount of fine to the present Applicant is much lessor than that of Tahsina. He further relied upon the order passed by the Learned Hon'ble Apex Court in the case of ***Guddan @ Roop Narayan Vs. State of Rajasthan***, in Criminal Appeal No.120 of 2023. The Hon'ble Court in the said case has held that putting the conditions of depositing of the entire fine amount for release of the person on bail is onerous and had allowed the Application for suspension of sentence and the released of the Accused on bail.

3. Learned APP vehemently opposes the Application stating that the Applicant is the member of a gang who has exploited poor unemployed person under the garb of giving employment. She submits that at least the Applicant be directed to deposit the amount of fine.

4. This Court has considered this submission. In view of the order passed by the Hon'ble Apex Court in the case of ***Guddan @ Roop Narayan Vs. State of Rajasthan***. This Court is inclined to allow the Application. The sentence is a short sentence of 3 years out of the same he

has already undergone sentence of 14 months. Considering all above, case is made out to allow the Application. Hence following order.

ORDER

- (a) Application stands allowed.
- (b) The sentence as awarded by the Learned Additional Sessions Judge, Malegaon in Sessions Case No.159 of 2016 dated 3rd March, 2023 stands suspended.
- (c) The Applicant shall be released on bail on furnishing PR. bond and solvent surety in the sum of Rs.15,000/- .
- (d) The Applicant shall keep informed concerned Police Station about his residential address, mobile number etc. and other contact details till the final disposal of the Appeal.
- (e) The Applicant shall keep informed about any change in above mentioned contact details immediately to the concerned Police Station.
- (f) The Application stands disposed of.

(KISHORE C. SANT, J.)