

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 4703 OF 2023
WITH
INTERIM APPLICATION NO. 4702 OF 2023
IN
CRIMINAL APPEAL NO. 1410 OF 2023**

Siddheshwar Pandit Kabade @ Patil ... Applicant(Org Accused No. 2)

Vs.

The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 4697 OF 2023
WITH
INTERIM APPLICATION NO. 4698 OF 2023
IN
CRIMINAL APPEAL NO. 1408 OF 2023**

Rintu Nazir Hussain Shaikh ... Applicant(Org Accused No. 1)

Vs.

The State of Maharashtra ... Respondent

Adv. Priyatosh Tiwari, for the Appellant/Applicant.
Mrs. M. R. Tidke, APP for State.

CORAM : KISHORE C. SANT, J.

DATE : 26th FEBRUARY, 2024

P.C.:-

1. Heard learned Advocate for the Applicant and Learned APP.
2. This Application is moved for suspension of sentence and release on bail of the Applicants. Both the Applicants are convicted by the learned Additional Sessions Judge, City Civil & Sessions Court, Mumbai by

Judgment and Order dated 8th November 2023, in Sessions Case No. 2068 of 2019. The Applicant No. 1/Org. Accused No. 1 is sentenced for offence punishable under Section 489-B his sentence is 10 years imprisonment and to pay fine of Rs. 10,000/-. The Applicant No. 2/Org Accused No. 2 is convicted for an offence punishable under Section 489C of the Indian Penal Code and its sentence to undergo imprisonment for 7 years and to pay fine of Rs. 5,000/- in default undergo imprisonment for period of 3 months.

3. The main ground on which bail is sought is that both the accused have suffered more than 5 years of sentence. The Accused No. 1 is in jail since 18th December 2018, whereas the Accused No. 2 is in jail since 27th December 2018. In both the cases the Applicants/Accused have suffered more than 50% of the sentence awarded by the Sessions Court. The Application also argued on merits submitting that the prosecution has not satisfactorily prove the offence. The Panchanama is of 27th December, 2018, drawn at police Station Chakan the other panchanama on the same date is drawn at Mumbai by the same Officer. There is a seal on both the panchama from the cross-examination of PW-11 it is shown that in police station there is only one seal. He submits that in such circumstances both the panchanama appears to be doubtful. He further submits that there is no record of the Investigating Officer visiting Chakan Police Station at Pune. He thus submits that entire investigation is faulty.

4. Learned APP vehemently argued that the prosecution has

clearly established it's case sufficient evidence is on record. She further submits that the Accused No. 2 has criminal antecedent. There is one more offence registered against him at Naldurga Police Station, District-Osmanabad, he charged under Section 489(B) and 489(C). She thus prayed for rejection of bail.

5. On merits this Court is not much impressed. However in respect of Accused No. 2, considering that the Applicants/Accused are in jail since last more than 5 years out of 7 years imprisonment his case can be considered by putting some conditions. Hence, the following order.

ORDER

a) The Interim Application No. 4703 Of 2023 and Interim Application No. 4702 Of 2023 are partly allowed.

b) The Applicant/Accused No. 2/Siddheshwar Pandit Kabade @ Patil be released on bail by suspending the sentence awarded by the learned Additional Sessions Judge, City Civil & Sessions Court, Mumbai by Judgment and Order dated 8th November, 2023 in Sessions Case No. 2068 of 2019 under Section 489C of Indian Penal Code on the following conditions.

c) The Applicant/Accused No. 2/Siddheshwar Pandit Kabade @ Patil be released on bail upon furnishing P. R. Bond and one solvency in the sum of Rs. 25,000/- he shall pay the

fine amount as awarded by the Trial Court. The Court may accept cash security provisionally for 4 weeks thereafter the Applicant to furnish proper bail and solvent surety within 4 weeks.

d) The Applicant/Accused No. 2/Siddheshwar Pandit Kabade @ Patil shall attend the concerned police station on every 1st Sunday of the month at 11.00 a.m.

e) The Applicant/Accused No. 2/Siddheshwar Pandit Kabade @ Patil shall furnish details of residential address and other contact details such as mobile number etc. to the police station. If there is any change in the contact details the same will be immediately informed to the concerned police station.

f) The Applicant/Accused No. 2/Siddheshwar Pandit Kabade @ Patil shall not indulge in any similar offence, if he is found indulging into similar activities their bail shall be liable to be cancelled.

6. The Applicant/Accused No. 1/Rintu Nazir Hussain Shaikh is at liberty to move Application after 6 months.

7. The Interim Application No. 4703 Of 2023 and Interim Application No. 4702 Of 2023 stands disposed of in the aforesaid terms.

(KISHORE C. SANT, J.)