

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

**INTERIM APPLICATION NO. 4133 OF 2024
IN
CRIMINAL REVISION APPLICATION NO.548 OF 2024**

Dnyaneshwar Sitaram Karale
v/s.
The State Of Maharashtra

.. Applicant
.. Respondent

Mr. Zaid Anwar Qureshi for the Applicant.

Ms. Ranjana Humane for the Respondent.

**CORAM : SHYAM C. CHANDAK, J.
DATE : 5th NOVEMBER 2024.
(VACATION COURT)**

P.C. :

ORDER IN Cr. REVISION APPLICATION NO.548 OF 2024

. Learned Advocate for the Applicant seeks leave to amend the prayer clause in the Revision.

2) Leave to amend.

3) Amendment be carried out forthwith.

4) Issue notice to the Respondent, returnable forthwith. Learned APP for Respondent-State waives the notice.

5) Heard learned Advocate for the Applicant and learned APP for Respondent-State.

6) The aforesaid Revision is seeking for quashing and setting aside of the impugned Judgment and Order dated 30th September 2024, passed by

the learned Additional Sessions Judge, Pune in Cri. Appeal No.388 of 2013.

7) The Applicant was convicted for the offence punishable under Section 385 of the Indian Penal Code sentenced to suffer rigorous imprisonment for a period of two years and to pay a fine of Rs.4000/- in default to undergo further rigorous imprisonment of 6 months, by the Judgment and Order dated 24th July 2013, passed by learned Judicial Magistrate First Class, Pune in RCC No.2970 of 2007. The Applicant assailed his conviction and sentence in said Cri. Appeal No.388 of 2013. However, the Appeal came to be dismissed on merit by the impugned Judgment and Order dated 30th September 2024.

8) Learned Advocate for the Applicant submits that there is delay of 1½ year in lodging the FIR. All the prosecution witnesses were interested witnesses. There is absolutely no material to attract the charge under Section 385 of I.P.C. for which the Applicant is convicted. The impugned conviction and sentence is based on assumption and not on appreciating the evidence in its correct perspective. Thus, the Applicant has made out an arguable case.

9) **Admit.**

ORDER IN INTERIM APPLICATION NO.4133 OF 2024

10) The learned Advocate for the Applicant submits that, the Applicant was on bail when the case before the trial Court and the Appeal before the Session Court were pending. The Applicant never misused the said bail liberty. The Applicant is aged 59 years and he is a practicing Advocate. The

Applicant is not likely to abscond. The Revision is admitted. Therefore, and considering the nature of the impugned sentence, the Application deserves to be allowed. Hence, following Order:

ORDER

- i) Interim Application No. 4133 of 2024 is allowed.
- ii) The effect and implementation of impugned Judgment and Order of conviction and sentence dated 24th July 2013, passed by learned Judicial Magistrate First Class, Pune in R.C.C. No.2970 of 2007 and the impugned Judgment and Order dated 30th September 2024, passed by the learned Additional Sessions Judge, Pune in Cri. Appeal No.388 of 2013, is suspended till the decision of the Revision.
- iii) Pending the Revision, the Applicant be released on bail in said R.C.C. No.2970 of 2007 on his furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount.
- iv) Bail shall be furnished in the trial Court.
- v) All the concerned to act on an authenticated copy of this Order.

(SHYAM C. CHANDAK, J.)

JYOTI
RAJESH
MANE

Digitally signed by
JYOTI RAJESH
MANE
Date: 2024.11.06
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