

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4803 OF 2024
IN
CRIMINAL APPEAL NO. 236 OF 2024

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Mohsin Mohammad Shaikh

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Ms. Sana R. Khan a/w. Mr. Onkar Bajaj, for Applicant.

Ms. P.N. Dabholkar, APP for Respondent No.1/State.

Mr. Rahul R. Patil, for Respondent No.2.

Mr. Ashok B. Shirke, PSI, Nigadi Police Station, Pimpri-Chinchwad,
present.

CORAM : M.M. SATHAYE, J.

DATE : 12th DECEMBER, 2024

P.C. :

1. This is second application of the Applicant/convict seeking interim bail and for suspension of sentence. The Appeal is admitted and pending for final hearing.

2. Learned counsel for the Applicant submitted that after first application was rejected on 04.04.2024 by this Court, the matter was carried to Hon'ble Supreme Court which has passed an order dated 17.05.2024 in which liberty is granted to the Applicant to renew his application before the concerned Court after a period of six months. It is submitted that six months time is over.

3. The relevant paragraph of the Hon'ble Supreme Court's Order is reproduced below.

“ Although we find no scope to interfere in the impugned order passed by the High Court, in exercise of our jurisdiction under Article 136 of the Constitution of India, however, we grant liberty to the petitioner to renew his application before the concerned Court after a period of six months.”

4. Perusal of the earlier Order of this Court dated 04.04.2024 indicates that after the application was rejected, the Applicant was given liberty in para 11, which reads thus:

“11. The Applicant is at liberty to move this court for fixing the Appeal at an early date, if the appeal is not taken up within reasonable time.”

5. Learned counsel for the Applicant submits that what is meant by Hon'ble Supreme Court is that liberty is given 'to renew his bail application' after a period of six months. On the other hand, learned APP submits that the same order of the Hon'ble Supreme Court also says that the Hon'ble Supreme Court finds no scope to interfere with the impugned Order passed by High Court; therefore, even para 11 of the High Court's Order is confirmed, and therefore liberty given is 'to renew application for early date'.

6. While arguing this application, learned counsel for the Applicant orally submitted that Section 376(2)(i) of the Indian Penal Code was deleted w.e.f. 21.04.2018 and if the date of FIR and allegations are seen then the alleged incident has apparently happened in July or August 2018 and therefore, the Applicant is

illegally convicted under the said section. Learned APP seeks time to counter this contention. Perusal of this application shows that this contention is not specifically raised.

7. Going by plain reading of the Order of the Hon'ble Supreme Court and dispute about interpretation of words 'renew his application' as raised above, in my view following order will serve the interest of justice :

(A) This application seeking interim bail is disposed of.

(B) The Applicant is at liberty to file fresh interim bail application raising permissible grounds, including the aforesaid contention about deletion of Section 376(2)(i) of IPC, which will be decided on its own merits.

(M.M. SATHAYE, J.)