

**Criminal Appeal No.733 of 2005**  
**Criminal Appeal No.1050 of 2005**

**03.05.2016**

Smt. Durgesh Gupta, learned counsel for the appellants.

Shri Brahmndatt Singh, learned Govt. Advocate for the respondents/State.

**I.A.No.2095/2016 (Cr.A.No.1050/2005) –**  
application for suspension of sentence.

This repeat bail application is filed by accused – **Sajid**. Being repeat bail application, it is not possible for us to examine the matters on merits. Only changed circumstance can be taken into account.

According to the applicant, the applicant is in custody for more than 12 years. Ordinarily, that would be a ground for releasing the applicant on bail whose conduct is reported to be satisfactory by the Jail Authorities. However, if the appeal itself can be heard immediately, the question of entertaining bail application and releasing the accused on such consideration, may not be appropriate.

The appeals are already notified under priority

category “**High Court Expedited Cases**” at Serial No.1. That presupposes that the appeal can be taken up for hearing very shortly.

Counsel for the applicants submits that both the appeals are at Sl.No.1, but, it may not reach for final hearing before the Court proceeds for summer vacation.

We gave offer to the counsel for the applicants that if the accused, so desire, their appeals can be listed for final hearing during Court vacation, before the Bench constituted for taking up old cases, where the accused are in jail for more than 10 years.

The counsel for the applicant has agreed for this option.

As a result, we **dispose of** this bail application and direct the Registry to process the appeal for being listed under appropriate category, as per its turn before the concerned Court during vacation period.

Counsel for the respondent/State has also agreed to appear, if the matter is taken up for hearing during vacation. Indeed, if the appeals are required to be adjourned by the Court, at the instance of the accused, the accused cannot be then permitted to complain or

apply for repeat bail application. On the other hand, if the appeals are not taken up for hearing during vacation by the Court, we give liberty to the applicants to renew their prayer for bail after vacation.

**Registry to keep the matter ready for listing before the Special Bench during vacation, to be nominated by the Chief Justice.**

**(A. M. Khanwilkar)**  
Chief Justice

**(Sanjay Yadav)**  
Judge

AM.