

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1325 OF 2026
IN
CRIMINAL APPEAL NO. 375 OF 2026

Harit Abhay Mehta & Anr ...Applicants
Versus
Central Bureau Investigation and Anr. ...Respondents.

Adv. Viral Rathod a/w Ankita Pandey i/b. Rakesh Kumar Singh,
for the Appellants in Appeal No. 375 of 2026 a/w IA No. 1325 of
2026.

Adv. Jai Vohra i/b. Adv. Amit Munde, Spl. PP, for CBI.
Mr. D. J. Haldankar, APP for the State.

CORAM: N. J. JAMADAR, J.
DATE : 27th AUGUST 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. This is an application for suspension of sentence and to enlarge the Applicants on Bail.
3. By a Judgment and Order dated 18th March, 2026 in CBI Special Case No. 35 of 2012, the Applicants have been convicted for the offences punishable under Sections 120-B, 420, 467, 471 and 468 of the Indian Penal Code, 1860.

4. For the major offence punishable under Section 420 read with Section 120-B of the Indian Penal Code, 1860, the Applicant Harit Abhay Mehta (Accused No. 2) has been sentenced to suffer rigorous imprisonment for 5 years and pay fine of Rs. 3 Crore 50 Lakhs and in default suffer simple imprisonment for 6 months. The Applicant Harit Abhay Mehta (Accused No. 2) has also been sentenced to suffer imprisonment of varying terms for the other offences for which he has been found guilty.

5. Whereas, for the major offence punishable under Section 420 read with Section 120-B of the Penal Code, the Applicant Abhay Yashwantlal Mehta (Accused No. 4) has been sentenced to suffer rigorous imprisonment for a term of 5 years and pay fine of Rs. 1 Crore, with default stipulation. The Applicant – Abhay Yashwantlal Mehta (Accused No. 4) has also been sentenced to suffer varying terms of imprisonment for the other offences for which he has been found guilty.

6. The learned Counsel for the Applicants submitted that Applicant Abhay Yashwantlal Mehta - (Accused No. 4) is 73 years of age. The amounts which were allegedly credited to the account of the Applicants were subsequently transferred to the accounts of the co-accused. The Applicants are not the real beneficiaries of the

alleged fraud. The Applicants have a fair chance of success in the Appeal. As the Applicant – Harit (A2) has undergone a sentence of imprisonment of about five months and Applicant Abhay (A4) has undergone a sentence of 7 months, and it is unlikely that the Appeal can be heard in a near future, the sentence of imprisonment as well as fine be suspended and the Applicants be enlarged on bail.

7. Attention to the Court was invited to an order dated 8th April 2026 passed by this Court in Interim Application No. 1106 of 2026 in Criminal Appeal No. 332 of 2026 whereby co-accused Ilesh Shah has been enlarged on bail.

8. The learned Counsel for the Respondent No. 1 opposed the prayer of suspension of sentence and release of the Applicants on bail. It was submitted that the Applicants were the principal offenders and direct beneficiaries of the fraud. Having regard to the magnitude of the fraud, the learned Special Judge was justified in imposing the fine in the sum of Rs. 3.50 Crore and 1 Crore, respectively. In the event, the Court is inclined to exercise the discretion and suspend the sentence, the Applicants be directed to deposit at least 50% of the fine amount.

9. I have perused the material on record. The maximum sentence imposed upon the Applicants is of five years. It is a fixed term sentence. The legal position is well-settled that, when a convicted person is sentenced to a fixed period of sentence, the prayer for suspension of sentence is required to be considered by the Appellate Court rather liberally unless there are circumstances which render the suspension of sentence unjustifiable.

10. Arguable questions, especially in regard to the quantum of fine, arise for consideration in the appeal. It is well recognized that where the statute does not provide a maximum ceiling on the quantum of fine, the amount of fine to be imposed by the Court shall not be excessive and exorbitant. The Court is required to take into account the relevant circumstances which bear upon the quantum of fine, including the capacity of the accused to pay the fine as the default in payment of fine is often visited with sentence.

11. The Applicants Harit (A2) and Abhay (A4) are stated to be in custody for a period of 5 and 7 months, respectively. Having regard to the large pendency of the cases before this Court, it is extremely unlikely that this Appeal can be taken up for hearing in the immediate future.

12. It is also well settled that, while exercising the discretion to suspend the sentence, the Appellate Court is empowered to even suspend the sentence of fine as well. A useful reference in this context can be made to the Judgment of the Supreme Court in the case of Central Bureau of Investigation V/s. Ashok Sirpal¹.

13. In the case at hand, having regard to the quantum of sentence, the amount of fine imposed by the Court, the situation in life of the Applicants and the unlikelihood of the Appeal being decided in the immediate future, this Court is inclined to exercise the discretion in favour of the Applicants and suspend the sentence including that of fine and enlarge the Applicants on bail.

14. Hence the following order :

: O R D E R :

(i) The Application stands allowed.

(ii) The sentence imposed by the learned Special Judge in CBI Special Case No. 35 of 2012 arising out of CR No.RC/E/2010 upon Harit s/o Abhay Mehta (A2) and Abhay s/o Yashwantlal Mehta (A4) stands suspended till the final disposal of the Appeal subject to the Applicant Harit s/o Abhay Mehta (A2) depositing a sum of Rs. 35 lakhs and the Applicant – Abhay s/o Yashwantlal

Mehta (A4) depositing a sum of Rs.10 Lakhs towards the fine before the Special Court within a period of 10 weeks from the date of their release on bail.

(iii) The Applicants be enlarged on bail, on furnishing a PR Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount, to the satisfaction of the learned Special Judge.

(iv) The Applicants shall not contact, or give threat to any witnesses in any manner.

(v) The Applicants shall surrender their passports before the Special Court and shall not leave India, without prior permission of this Court.

(vi) The Applicants shall report to the CBI, EOW, on the first Sunday of every alternate month between 11.00 am and 1.00 pm, till the final disposal of the appeal.

(vii) On being released on bail, the Applicants shall furnish their cell phone numbers and residential addresses to the Investigating Officer and shall keep the same updated, in case of any change therein.

Application disposed.

[N. J. JAMADAR, J.]