

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION 2035 OF 2015
IN
CRIMINAL APPEAL NO. 361 OF 2015**

Shivaji s/o Dhondiba Gadekar **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. A.R.Devakate, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 21st APRIL, 2015

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PER COURT :

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard Mr. A.R.Devakate, learned counsel for Applicant and Mr. A.S.Shinde, learned A.P.P. for Resp. – State.
3. The application is filed by the applicant/original accused No. 1, since he is convicted by the learned Special Judge, Omerga in Special [A.C.] Case No. 5/2011, by which the Special Judge has convicted the applicant for the offence

punishable u/s 7 of the Prevention of Corruption act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs. 20,000/-, in default to suffer simple imprisonment for six months. The applicant is further convicted for the offence punishable u/s 13 (2) of the Prevention of Corruption act and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs. 10,000/-, in default to suffer simple imprisonment for six months. Learned Special Judge directed that both the sentences shall run concurrently.

4. Learned counsel for the applicant invited my attention to page No. 11 of the application, which is an application filed on behalf of present applicant u/s 389 of the Code of Criminal Procedure before the learned Special Judge. On 19/03/2015, learned Special Judge has released applicant No. 1 on he executing P.R. Bond of Rs. 15,000/- and he has already suspended the substantive jail sentence till the Appeal period on applicant depositing the fine amount. Learned counsel for the applicant also invited my attention on the noting of the Judgment itself, which points out that the applicant has deposited the fine amount. Further, the applicant was on bail through out during the course of the trial and at no point of time he has mis-used the liberty.

5. In that view of the matter, I pass the following order.

(i) Present Criminal Application is allowed.

(ii) The substantive jail sentence imposed upon the applicant by the Special Judge, Omerga dated 19/03/2015 in Special [A.C.] Case No. 5/2011 for the offences punishable u/s 7 and 13 (2) of the Prevention of Corruption Act shall stand remain suspended during the pendency of the present Appeal.

(iii) Applicant be released on bail on he executing P.R. Bond of Rs. 15,000/- with one solvent surety of like amount. Bail before the trial Court.

(iv) Applicant shall remain present before this Court at the time of final hearing of the present Appeal.

[V.M.DESHPANDE, J.]