

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

**CRIMINAL APPLICATION NO. 2708 OF 2015
IN
CRIMINAL APPEAL NO. 434 OF 2015**

Kailas Namdeo Gaikwad,
Age : 40 Years, Occu. : Business,
R/o Dighi, Tq. Shrirampur,
Dist. Ahmednagar. .. Applicant

Versus

The State of Maharashtra .. Respondent

Shri Abhijit B. Kale, Advocate for the Applicant.
Shri A. V. Deshmukh, A.P.P. for the Respondent/State.

**CORAM : SMT. SADHANA S. JADHAV,
[VACATION JUDGE]
DATE : 26TH MAY, 2015.**

PER COURT :

. Heard.

2. This is an application U/Sec. 437 of the Criminal Procedure Code. The applicant herein was original accused No. 2 in Special Case (ACB) No. 01 of 2015. The applicant herein is convicted for the offence punishable U/Sec. 109 of the Indian Penal Code read with Sec. 7 of the Prevention of Corruption Act, 1988 and sentenced to suffer R. I. for three (03) years and to pay fine of Rs. 1,000/- (Rs. One thousand only). He is also convicted for the

offence punishable U/Sec. 109 of the Indian Penal Code read with Sec.13(1)(d) of the Prevention of Corruption Act, 1988 and is sentenced to suffer R. I. for four (04) years and to pay fine of Rs. 1,000/- (Rs. One thousand only) by the Special Judge (ACB), Shrirampur, Dist. Ahmednagar vide judgment and order dated 22nd May, 2015.

3. The learned counsel for the applicant submits that, the applicant has been taken into custody on 22nd May, 2015 and is in custody. The amount of fine has been paid. The learned counsel further submits that, the applicant was on bail during the pendency of trial and has not committed breach of conditions imposed upon him and hence is entitled for bail during the pendency of appeal. The sentence imposed upon the applicant is short term sentence. The learned counsel for the applicant has placed reliance on the judgment of the Apex Court in a case of **Kiran Kumar Vs. State of M. P.** reported in **2001 AIR SCW 5130**.

4. In view of this, the applicant deserves to be enlarged on bail during the pendency of appeal.

O R D E R

I. The application is allowed.

II. The substantive sentence imposed upon the applicant is

hereby suspended.

III. The applicant be enlarged on bail. Same bail, fresh bond.

IV. The applicant shall report to the Court of Additional Sessions Judge, Shrirampur once in six (06) months on the date scheduled by the learned Court.

V. Upon failure to attend any two consecutive dates, the prosecution would be at liberty to seek cancellation of relief granted hereinabove.

VI. The application is allowed and stands disposed of.

VII. The parties to act on authenticated copy.

**[SMT. SADHANA S. JADHAV]
VACATION JUDGE**

bsb/May 15