

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 1032 of 2015
IN
CRIMINAL APPEAL No. 841 of 2015

Vitthal Laxman Patil ..Applicant.

Vs

The State of Maharashtra ..Respondent.

Mr Tejas Hilage for the Applicant.

Mrs Anamika Malhotra, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 27th August,2015.

PC. :

1) Heard the learned Counsel for the applicant on the application for bail during pendency of the appeal. The applicant is convicted for the offence under section 7, 13 (1) (d) read with section 13 (2) of the Prevention of Corruption Act, 1988. For both the counts, the applicant / appellant is sentenced to suffer RI for six months each and to pay a fine of Rs.1000/- and Rs.2000/- respectively. Reportedly, both the fine amounts are paid.

2) At this juncture, it must be mentioned that the learned Special Judge, Kolhapur i.e. the 2nd Additional Sessions Judge, at Kolhapur had erred in awarding sentence of six months RI for the offence under section 13 (1) (d) read with section 13 (2) of

the Prevention of Corruption Act, 1988. This is against the mandate of law as minimum sentence for offence punishable under section 13 (2) is one year and there is no clause for awarding lesser punishment, special reasons to be recorded. In fact, this error can definitely to be cured at the time of final adjudication of the present appeal. However, while considering the present application for bail, it is to be ascertained whether the applicant can be released on bail during the pendency of the appeal. Reportedly, during the trial the applicant was on bail. The fine amounts are also paid and the applicant/accused is granted bail till filing of the appeal.

3) Considering the above circumstances, the present application for bail is allowed. The applicant be released on same bail with fresh bonds as granted by the trial Court. The sentence of imprisonment is suspended till conclusion of the appeal.

4) Application is disposed of.

(A.R. JOSHI, J.)