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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1168 of 2015.

IN

CRIMINAL APPEAL No. 158 of 2015

Prakash Mahadeo Patil

..Applicant/Appellant.

Vs

The State of Maharashtra

..Respondent.

Mr Sandip Laxman Babar, Advocate for the Applicant/
Appellant.

Mrs Anamika Malhotra, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 6th OCTOBER, 2015

PC.

1) Heard learned counsel for the applicant/appellant on this application for suspension of conviction during pendency of appeal.

2) The applicant/appellant is convicted for the offences punishable under section 7, 13 (1) (d) and 13 (2) of the Prevention of Corruption Act, 1988 by the learned Special

Judge, Mangaon – Raigad in Special Case (ACB) No.02 of 2011 on 31st January, 2015.

3) The appeal preferred by the applicant/appellant is admitted on 4th February, 2015 and the bail application was already granted suspending the substantive sentence. Now the only argument is that the prosecution has failed to establish demand and acceptance and that the applicant / accused has not accepted any bribe amount, however, erroneously convicted by the trial Court. It is also argued that the applicant had already lost his job as he is already been terminated from his service as an officer from the Forest Department. Apart from this argument, there is nothing brought to the notice of this Court as to legal necessity and exigency for taking recourse to Section 389 of Cr.P.C. mainly for suspension of the conviction. Needless to mention that the suspension of conviction is in fact an extraordinary relief being granted only under special circumstances but such power is required to be exercised sparingly and various aspects are required to be looked into

including the ramifications of not granting relief. Further needless to mention that monetary loss due to losing the service on conviction cannot be a ground for suspension of conviction and for reinstatement of service as this monetary loss can be cured and the reimbursement can be made to the person after he succeeds in the appeal challenging his conviction.

4) In the present matter, during the trial total four witnesses were examined. Even the verification of the demand was also undertaken by the Investigating Agency. The tape recorded conversation was also brought before the trial Court and the expert witness has given his evidence before the trial Court. So far as the merits of the matter are concerned, there is nothing brought on record that the order of the trial Court is per se of such a perverse nature that there could not have been conviction against the applicant/appellant.

5) In the result, it is apparent that there are no any exceptional circumstances for grant of relief of suspension of conviction. So also considering that there are no ramifications of

not granting the suspension of conviction, in the considered view of this Court, this is not a case in which the said relief can be granted to the applicant. Hence, the application for suspension of conviction is accordingly dismissed and disposed of.

(A.R.JOSHI, J.)

CERTIFICATE :-

*CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED ORDER.*