

JPP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION**

**CRIMINAL APPLICATION NO. 1442 OF 2014
IN
CRIMINAL APPEAL NO. 793 OF 2014**

Nitin Prabhakar Pawar @ Maya. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Mr. Nitin Sejpal a/w. Mrs. Pooja Sejpal/Bhojne for the Applicant.
Mrs. A.S. Pai, APP for the State.

**CORAM : P.V. HARDAS &
Dr. SHALINI PHANSALKAR-JOSHI, JJ.**

JANUARY 27, 2015.

P.C. :-

This Application has been filed by the Applicant/Original Accused No.2 seeking suspension of the substantive sentence of imprisonment and enlarging him on bail pending the decision of the Appeal. Admittedly, the Applicant/Original Accused No.2 stands convicted for offence punishable under Section 120-B of the Indian Penal Code and is sentenced to R.I. for 10 years and to pay fine of Rs.25,000/- in default of which to undergo further R.I. for 4 years. The Applicant is further convicted for offence punishable under Section 307 r/w. 34/109 of the Indian Penal Code and sentenced to R.I. for 10 years and to pay fine of Rs.25,000/- in

default of which to undergo further R.I. for 4 years, with a direction that the substantive sentences shall run concurrently, by the Special Judge (under the MCOC Act, 1999), Greater Bombay by Judgment dated 27.8.2014 in MCOC Special Case No.1 of 2010.

2. Admittedly, the Applicant has undergone imprisonment for 5 years and 3 months. The Applicant is convicted and sentenced for a maximum term of 10 years with a direction that the substantive sentences shall run concurrently. Thus, the Applicant has undergone more than half the imprisonment with which he stands convicted and sentenced.

3. The learned APP has urged before us that the 2 other offences i.e. Crime No.278 of 2007 registered by the Andheri Police Station under Section 385 r/w. 34 of the Indian Penal Code is pending and Crime No.149 of 2009 registered by the DCB, CID, Mumbai. The learned Counsel for the Applicant has tendered before us copies of the Bail Application filed by the Applicant in the aforesaid 2 crimes which indicate that the Applicant has been released on the bail in the said 2 crimes. The learned APP has also urged before us that certain prison offence has been registered against the Applicant on account of his behaviour in the prison.

4. The Applicant is convicted and sentenced with a term of imprisonment of 10 years which is a short term

sentence. The Applicant has undergone more than half the actual imprisonment. The Appeal filed by the Applicant is of the year 2014 and it is not possible to hear and decide the Appeal finally within a period of 6 months. If bail is denied to the Applicant, the Applicant would undergo the full term of imprisonment. Since it is a short term sentence and there is no possibility of the Appeal being decided in the immediate future, we allow this Application and suspend the substantive sentence of imprisonment and release the Applicant on bail on the Applicant executing a P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the Trial Court. In addition thereto, the Applicant shall attend DCB, CID, Unit-VI, once in three months i.e. on the first Saturday of the quarter between 8.00 a.m. to 9.00 a.m. Failure of the Applicant to comply with this condition would entitle the Respondent - State of Maharashtra to file an Application for cancellation of bail.

Application allowed as indicated above.

(DR.SHALINI PHANSALKAR-JOSHI, J.) (P.V. HARDAS, J.)