

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1572 OF 2015
IN
CRIMINAL APPEAL NO. 1159 OF 2015

Keshav Vikram Patil. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. M.S. Mohite i/b. Mr. Ashish Sawant, advocate for Applicant.

Mrs. A.A. Mane, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : DECEMBER 23, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 389 of the Code of Criminal Procedure, 1973 seeking suspension of substantive sentence imposed upon the applicant by the Special Judge (ACB) & Additional Sessions Judge-5, Thane vide Judgment and Order dated 10/12/2015 in Special ACB Case No.

10 of 2011. The applicant herein was charged for offence punishable under Section 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The applicant has been convicted for all the charges levelled against him. The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any condition imposed upon him.

3 Reliance can be placed upon the Judgment of the Apex Court in the case of **Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130** for seeking suspension of substantive sentence during the pendency of the appeal which cannot be heard at the earliest thereby causing the prayer to become infructuous.

4 The appeal is admitted. The sentence imposed upon the applicant is a short term sentence. It is not possible for this Court to take up the appeal for final hearing in near future since this Court is hearing appeal of the year 1994-95. Hence, taking into consideration the submissions advanced across the bar and the impugned judgment,

this Court is inclined to suspend the substantive sentence. Hence, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant by Judgment and Order dated 10/12/2015 by the Special Judge ACB & Additional Sessions Judge-5, Thane in Special ACB Case No. 10 of 2011 is hereby suspended.
- (iii) The applicant be enlarged on furnishing P.R. Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.
- (iv) The applicant shall report to the Special Judge ACB & Additional Sessions Judge-5, Thane once in 6 months on the date specified by the learned Court.

(v) In case of failure to attend the said Court on any two consecutive dates, the prosecution shall be at liberty to move for cancellation of bail.

(vi) At the time of furnishing bail bond, the applicant shall furnish his permanent address, cell phone number as well as the address and cell phone number of the sureties.

5 Application stands disposed of.

Parties to act on an authenticated copy of this order.

(SMT. SADHANA S. JADHAV,J)