

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 118 OF 2016
IN
CRIMINAL APPEAL NO. 58 OF 2016

Karkela Shivaji Arya and another

.....Applicants

V/s.

Union of India and another

....Respondents

Mr. Prakash L. Shetty Advocate for the Appellant
Mr. Sandip Babar i/b Mr. Shahaji Shinde for respondent no. 1
Mr. Rajesh More APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : FEBRUARY 4, 2016.

PC :

Heard. This is an application under section 389 of Code of Criminal Procedure, 1973 seeking suspension of substantive sentence imposed upon the applicants. Applicant herein is convicted for offence punishable under section 13 (2) r/w 13 (1) (e) of Prevention of Corruption Act, 1988. Applicant no. 2 is convicted for offence punishable under section 109 r/w section 13 (2) r/w section 13 (1) (e) of Prevention of Corruption Act, 1988 and are sentenced to suffer rigorous imprisonment for two years and fine of Rs. 30,000/- each in

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default to suffer simple imprisonment for 3 months by Special Judge, Greater Bombay in Special Case No. 2 of 2010 vide Judgment and Order dated 03/12/2015.

2) Learned counsel for the applicants submits that applicants were on bail during the pendency of trial and have not committed breach of any conditions imposed upon them and therefore, they deserve the extension of the same relief during the pendency of the appeal. It is further submitted that applicants are sentenced to a short term sentence. This court is hearing criminal appeals of the year 1996 where accused are convicted for offence punishable under section under the provisions of Prevention of Corruption Act, 1988 and therefore, it would not be possible to hear the present appeal in the near future and therefore, applicants deserve grant of bail. However, it is made clear that suspension of substantive sentence shall not be construed as a stay to the conviction.

ORDER

- (i) Application is allowed.
- (ii) The substantive sentence imposed upon the applicants is hereby suspended and they be enlarged on same bail, fresh bonds.

- (iii) Applicants shall execute fresh bonds within 3 weeks from today, upon failure to execute fresh bonds within the stipulated time, learned Special Judge shall issue non-bailable warrant calling upon the applicants to serve the sentence.
- (iv) Applicants shall attend the court of Special Judge, Greater Bombay, once in six months, as directed by the concerned court, till the decision of appeal.
- (v) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.
- (vi) Application stands disposed of.
- (vii) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)