

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 145 OF 2016
IN
CRIMINAL APPEAL NO. 81 OF 2016

Captain Sikandar Moulali Mhaisale

.....Applicant

V/s.

The C.B.I. A.C.B., Mumbai and another

....Respondents

Mr. Niranjana Mundargi Advocate for the Appellant
Mr. Y. M. Nakhwa for C.B.I.
Mrs. A. A. Mane APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : FEBRUARY 15, 2016.

PC :

Heard. This is an application under section 389 of Code of Criminal Procedure, 1973 seeking suspension of substantive sentence. Applicant herein is convicted for offence punishable under section 7 of Prevention of Corruption Act, 1988 and is sentenced to suffer rigorous imprisonment for 3 years and fine of Rs. 25,000/- in default to suffer further rigorous imprisonment for 3 months, he is also convicted for offence punishable under section 13 (1) (d) r/w section 13 (2) of Prevention of Corruption

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Act, 1988 and sentenced to suffer rigorous imprisonment for 3 years and fine of Rs. 25,000/- in default to suffer rigorous imprisonment 3 months by the Special Judge, Greater Bombay in Special Case No. 1 of 2009 vide Judgment and Order dated 21/12/2015.

2) Learned counsel for the applicant submits that applicant was on bail during the pendency of trial and has not committed breach of any conditions imposed upon him and therefore he is entitled to the extension of same relief during the pendency of appeal. It is also submitted that the sentence imposed upon the applicant is a short term sentence. This Court is hearing the criminal appeals of the year 1996 where the appeals are convicted under the provisions of Prevention of Corruption Act, 1988. The appeal cannot be heard in the near future and therefore, applicant deserves grant of bail. Hence, the following order.

ORDER

- (i) Application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended.

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

(SMT. SADHANA S. JADHAV, J.)