

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 220 OF 2016
IN
CRIMINAL APPEAL NO. 141 OF 2016

Narendra S/o Damu Walvi	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Ms. Meera Barge, Advocate for the applicant.
Mr. Rajendra More, APP, for the State.

CORAM: SMT. SADHANA S.JADHAV, J.
DATE : 29th February, 2016.

P.C.

Heard. This is an application under Section 389 of Cr.P.C. The applicant is seeking suspension of substantive sentence. The applicant herein is convicted of the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 and sentenced to suffer R.I. for one year and to pay fine of Rs.3,000/-, in default, further S.I. for two months. The applicant is also convicted of the offence punishable under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act and sentenced to suffer R.I. for two years and fine of Rs.3,000/- in default S.I. for two months by the Addl. Sessions Judge, Nashik in Special Case No.11 of 2011 vide judgment and order dated 30.1.2016.

2. The learned counsel for the applicant submits that the applicant has deposited the amount of fine imposed upon him on the same day. That since the sentence awarded is less than three years and that the applicant was on bail during the pendency of the trial, the substantive sentence has been suspended to enable the applicant to prefer an appeal.

3. 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 conditions imposed upon him and hence he deserves the extension of the same relief during the pendency of the appeal as the appeal has been admitted. It is further submitted that at present, this Court is hearing appeals of the year 1996 where the accused are convicted under the provisions of Prevention of Corruption Act, 1988 and hence it may not be taken up for final hearing in the near future.

4. Taking into consideration the submissions advanced across the Bar, this Court is inclined to suspend the substantive sentence. However, it is made clear that the substantive sentence does not amount to suspension of conviction.

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail. Same bail, fresh bonds.
- (iii) The applicant shall furnish sureties before the Special Court at Nashik within three weeks from today. Upon failure to furnish bail bonds within three weeks, the learned Special Judge shall issue non-bailable warrant against the accused calling upon him to serve the substantive sentence.
- (iv) The applicant shall report to the Court of Special Judge, Nashik once in six months on the date given by the Special Court, Nashik. Upon failure to attend the Court of Special Judge, Nashik, on any two consecutive dates, as specified by that Court, the prosecution shall be at liberty to move for cancellation of bail.

Application is allowed in the above terms and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)