

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.655 OF 2016
WITH
CRIMINAL APPLICATION NO.656 OF 2016
IN
CRIMINAL APPEAL NO.375 OF 2016**

Ravindra Narayan Sambargikar)...Applicant

v/s.

Central Bureau of Investigation)...Respondent

Mr. Sandeep R. Karnik with Mr. Himanshu V. Pradhan, Advocates for the Applicant.

Mr. H.S.Venegaonkar for CBI.

Mrs. M.R.Tidke, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 18th OCTOBER 2016.

P.C. :

At the outset, learned counsel for applicant seeks leave to amend memo of appeal wherein it is stated that applicant is presently lodged at Arthur Road Jail as he is now lodged at Central Jail at Nashik. Leave as prayed is allowed and amendment be effected forthwith.

2 Heard learned counsel for applicant and the learned APP
for State.

3 These applications are filed for grant of bail and for
suspension of sentence and fine imposed upon applicant- Ravindra
Narayan Sambargikar, the only accused who came to be convicted by
the learned Special Judge, City Civil Court, Greater Bombay. Learned
counsel for applicant has pointed out that along with applicant other
three co-accused were tried who were acquitted while applicant came
to be convicted under the provisions of Sections 420, 467, 468, 471
and 477-A of the I.P.C. and for the offences punishable under Sections
13(1)(d)(ii) read with Section 13(2) of the Prevention of Corruption
Act, 1988. It is contended that applicant was on bail pending trial and
has no criminal antecedents and has prayed that as the maximum
sentence imposed upon applicant under the provisions of Indian Penal
Code is of three years, application be allowed by imposing suitable
conditions.

4 The learned APP has opposed application on the ground
that there is direct evidence against applicant who is found to have
prepared forged salary receipts of employees of Railway department
and is beneficiary of huge amount, which is necessary to be recovered
and has, therefore, prayed that till the amount of fine imposed by the

learned Special Court is not paid by applicant, application should not be considered.

5 Considering the facts involved in the application and on perusal of the record, it is found that applicant came to be convicted for the offences punishable under Sections 420, 467, 468, 471 and 477-A of the I.P.C. Under Section 420 of IPC, he was sentenced to suffer R.I. for one year and to pay fine of Rs.2000/- in default to suffer RI for three months. Under Section 467 of IPC, he was sentenced to suffer R.I. for three years and to pay fine of Rs.2,000/- in default to suffer R.I. for six months. Under Section 468 of IPC, he was sentenced to suffer RI for three years and to pay fine of Rs.2000/- in default to suffer RI for six months. Under Section 471 of IPC, he was sentenced to suffer R.I. for two years and to pay fine of Rs.2000/- in default to suffer RI for three months. Under Section 477-A of IPC, he was sentenced to suffer RI for three years and to pay fine of Rs.2000/- in default to suffer RI for six months.

6 Applicant is also convicted for the offence punishable under Section 13(1)(d)(ii) read with Section 13(2) of the Prevention of Corruption Act, 1988 and is sentenced to suffer RI for three years and is directed to pay fine of Rs.21,81,571/- in default to suffer RI for six months.

7 Considering the facts as aforesaid, it is found that maximum punishment imposed upon applicant is for a period of three years. The learned counsel for applicant makes a statement at bar that applicant is ready to pay fine amount of Rs.2,000/- each imposed upon him on being sentenced to suffer imprisonments under various provisions of the Indian Penal Code. It is material to note that for the offence punishable under the provisions of Prevention of Corruption Act, 1988, apart from imposing RI for a term of three years, applicant is imposed with fine of Rs.21,81,571/- and in default, he is directed to suffer RI for six months. Applicant is taken in custody from the date of judgment i.e. 16.5.2016 as such, is in custody for a period of about 5 months.

8 Considering the facts as aforesaid and in particular, maximum sentence imposed which is of term of three years RI, application is liable to be allowed by imposing conditions as per order below, as even otherwise, it is no case of prosecution that while on bail pending trial, applicant misused the liberty granted to him or has criminal antecedents. In the circumstances, following order is passed:

- (1) Application is allowed.
- (2) Substantive sentence imposed upon applicant

is suspended subject to applicant's paying entire fine amount imposed upon him by the learned Special Court for the offences punishable under various provisions of the Indian Penal Code.

(3) Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

(4) It is made clear that there is no stay granted to recovery of amount of fine imposed upon applicant by the learned Special Court while awarding imprisonment for the offence under Cr.P.C. Respondents are thus at liberty to recover the same as per Maharashtra Land Revenue Code.

(5) Applicant shall mark his presence at Miraj Police Station once in a six months, on the first day of such month, pending appeal within whose jurisdiction he is residing.

(6) Applicant shall not leave jurisdiction of this Court without obtaining prior permission of this Court.

(7) Applicant shall provide proof of his residence

to the Investigating Officer and change in address in future, if any, to the concerned police station.

(8) Application stands disposed of as allowed.

(P. N. DESHMUKH, J.)