

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.962 OF 2016

IN

CRIMINAL APPEAL NO.528 OF 2016

KISHORE S/o.PANDIT DHARMADHIKARI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.C.P.Sengaonkar, Advocate for the Applicant.

Ms.A.A.Takalkar, , APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 30th AUGUST 2016.

P.C. :

1 This is an application by accused who is convicted for the offences punishable under Sections 7, 13(1)(d) and 13(2) of Prevention of Corruption Act, for suspension of substantive sentences and for grant of bail.

2 Heard learned counsel for both the sides. Learned counsel for applicant had contended that at the time of incident, applicant was working as Revenue Circle Officer. Complaint was received by the officials of Anti Corruption Bureau (ACB) with reference to alleged

demand of bribe by applicant for issuance of cheque with reference to agricultural land of complainant, acquired by government for dam. It is specific case of applicant that he has no authority to issue cheque, however, is falsely implicated.

3 Learned APP while opposing the application has contended that infact, it has come on record that applicant in his own handwriting had written by pencil on cheque “there is complaint and not to issue cheque.” Referring to this endorsement, it is submitted that same shall be motive on the part of applicant to not to issue cheque till his demand is satisfied. As against this, learned counsel for applicant has submitted that even if it is construed that such an endorsement is put by pencil by applicant himself, that was not with reference to as stated by learned APP, but said endorsement was put on the cheque as even before complainant's lodging complaint, there was already one complaint lodged by someone with regards to issuance of cheque to the land owners whose lands were acquired. It is, therefore, contended that even on this count, applicant has good case on merits, as according to the case of prosecution itself, if it was decided not to issue cheque for reasons as aforesaid, there is no reason for applicant to demand bribe for issuance of cheque.

4 On perusal of impugned judgment and order, it appears that applicant came to be convicted for the offences punishable under Sections 7, 13(1)(d) and 13(2) of Prevention of Corruption Act (P.C.Act), and is sentenced to suffer rigorous imprisonment for 2 years and to pay a fine of Rs.5,000/-, in default, to suffer simple imprisonment for 4 months, for the offence punishable under Section 7 of P.C.Act, and is sentenced to suffer rigorous imprisonment for 1 year and to pay a fine of Rs.5,000/-, in default, to suffer simple imprisonment for 4 months, for the offence punishable under Sections 13(1)(d) read with Section 13(2) of said Act.

5 Considering the sentence as aforesaid, which can be termed as short sentence, and as applicant was on bail during trial, and as it is no case of prosecution that while on bail, applicant has misused liberty granted to him, sentence imposed upon applicant is liable to be suspended, granting bail as per order below :

- i) Applicant shall be released on bail on his executing PR.Bond in the sum of Rs.25,000/- with 1 surety in like amount.

- ii) While on bail, applicant shall mark his presence before the learned Special Judge, once in six months, and shall submit proof of his address to the Investigating Officer and shall communicate change in address, if any.

(P. N. DESHMUKH, J.)