

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1251 OF 2016

IN

CRIMINAL APPEAL NO.663 OF 2016

VIJAYKUMAR PIRAJI CHINCHALKAR)...APPLICANT

V/s.

**THE STATE OF MAHARASHTRA)
(Through Anti Corruption Bureau, Ratnagiri))...RESPONDENT**

Mr.Harshad Bhadbhade a/w. Mr.Harshad Sathe, Advocate for the Applicant.

Ms.V.S.Mhaispurkar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 7th OCTOBER 2016.

P.C. :

1 Issue notice to respondent. Learned APP accepts notice on behalf of respondent – State.

2 Learned counsel for applicant prays for suspension of sentence imposed upon applicant contending that the case of prosecution is doubtful right from its inception, in view of the fact that complainant though is a resident of Chiplun, has preferred to lodge

report with ACB Thane, and on the strength of such report in a trap which came to be laid, applicant came to be falsely involved stating to have found demanded and accepted bribe of Rs.5 Lakh. It is further submitted that infact office of ACB Ratnagiri is situated at a distance at 3 kms. from the office of Excise Department, where applicant was posted as Superintendent. In spite of that, no reason is put forth by prosecution why complainant did not lodge report with ACB Ratnagiri.

3 Applicant is tried and convicted for the offence punishable under Sections 7, 13(1)(d) read with Section 13(2) of Prevention of Corruption Act and on both counts was sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for 6 months.

4 Similarly, Investigating Officer has admitted that complaint against a public servant in an offence under Prevention of Corruption Act is required to be filed in the Office of ACB within whose jurisdiction the offence has taken place. He has further admitted that on complainant's meeting him at Thane, he learnt that complaint was against a public servant posted at Ratnagiri.

5 Considering facts as aforesaid as applicant was on bail pending trial, application is liable to be allowed by suspending substantive sentence imposed upon applicant as per order below :

- i) Applicant shall be released on bail on his executing P.R.Bond in the sum of Rs.25,000/- with one surety in like amount or two sureties in the sum of Rs.12,500/- each.
- ii) While on bail applicant shall mark his presence with Ratnagiri City Police Station once in six months, pending appeal.
- iii) Applicant shall submit proof of his residence to the Investigating Officer and update change of address if any in future.
- iv) Parties to act on a copy of order duly authenticated by the Sheristedar of this court.

(P. N. DESHMUKH, J.)