

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3204 OF 2017
IN
CRIMINAL APPEAL NO. 282 OF 2017

Siddharth S/o Somaji Punwatkar, Aged
62 Years, Occ. Nil (Retired), R/o
Nandanvan Colony, Plot No.263,
aurangabad

APPLICANT

V E R S U S

The Union of India, through C.B.I.,
A.C.B. Nagpur

RESPONDENT

Mr. Rajendra S. Deshmukh, Advocate for the Applicant
Mr. S.B. Deshpande, Asstt. Solicitor General of India
for the Respondent

CORAM : V.L. ACHLIYA, J.

DATE : 26TH JULY, 2017

ORAL ORDER :

1. This application is filed by applicant-appellant seeking suspension of substantive sentence and release on bail during the pendency of appeal for the reasons set out in detail in the application.

2. Heard learned counsel for the Applicant and learned Asstt. Solicitor General of India representing the respondent i.e. CBI.

3. The applicant-appellant was tried for committing offence punishable under Section 13(1)(e) read with Section 13 (2) of the Prevention of Corruption Act, 1988 with an allegations that the respondent-accused was found in possession of assets disproportionate to his known source of income. On conclusion of trial, the trial Court found him guilty of said offence and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.25,000/- and further directed that the seized amount of Rs.2,70,00/- together with interest lying deposited in Fixed Deposit, be confiscated to the State.

4. Mr. R.S. Deshmukh, learned counsel for the applicant contended that the appellant have good case to succeed in the Appeal. He further submits that during the trial, the appellant was on bail. In order to prefer appeal, the trial Court has suspended the sentence. According to him, the applicant is now retired and he has deep roots in the society.

5. On the other hand, learned Asstt. Solicitor General for the respondent opposed the application with contention that looking to the nature of offence and sentence awarded, the applicant may not be enlarged on bail. He further submits that while delivering the Judgment, the trial Court has not considered the amendment made to Section 13(1)(e) of Prevention of Corruption Act. By virtue of amendment made now, minimum sentence awarded for said offence cannot be less than four years. In reply to this argument, learned counsel for the appellant submits that the alleged offence is committed much prior to the amendment.

6. I have thoroughly considered the submissions advanced by the learned counsel for the parties in the light of Judgment and order passed by trial court. To enable the appellant to prefer Appeal, the trial Court has suspended the sentence. In the light of nature of offence and sentence, the applicant deserves to be enlarged on bail. In case the sentence is not

suspended there is every likelihood that appeal may become infructuous. During trial the applicant was on bail. On conviction, trial Court has suspended the sentence till the period of appeal to enable the appellant to approach to this Court and file appeal. Hence, I am inclined to pass following order :-

O R D E R

- (1) Pending disposal of the Appeal, the execution of substantive sentence stands suspended subject to deposit of fine amount.
- (2) Pending disposal of the Appeal, the applicant be released on bail on furnishing bail in the sum of Rs. 50,000/- (Rupees fifty thousand) with one surety in the like amount, on following conditions.
 - (i) Pending disposal of the Appeal, the applicant shall attend C.B.I., A.C.B. Pune, on last day of each month.

(ii) The applicant shall not indulge into any offence of similar nature during the pendency of the Appeal.

(iii) The applicant shall furnish the names of their three close relatives with their addresses and phone numbers.

(3) In the event of breach of any of the conditions of bail, the bail granted to the applicant will be liable to be cancelled.

(4) Bail be furnished in the trial Court.

(5) The Officer In-charge of the C.B.I., A.C.B. Nagpur is directed to submit the report of compliance of conditions of bail after every six months.

7. Criminal Application stands disposed of in above terms.

(V.L. ACHLIYA, J.)

