

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.464 OF 2017
IN
CRIMINAL APPEAL NO.1072 OF 2015**

**Narendra Manbahaddur Soni @
Lala)...Applicant**

**V/s.
State Of Maharashtra)...Respondent**

Mr. Aniket Vagal, Advocate for the Applicant..

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

CORAM : A. M. BADAR, J.

DATE : 12th April, 2017.

P.C. :

This is an application for suspension of sentence and releasing the applicant-accused on bail during the pendency of the appeal filed by him which is already admitted for final hearing by this Court.

2 The applicant-accused has been convicted of the offences punishable under Sections 387 read with 120-B, 307 read with 120-B of the IPC and under Section 3(2), 3(1)(ii) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (For the

sake of brevity '**MCOC Act**') by the learned trial Court in M.C.O.C. Special Case No.12 of 2010. On each count for the offences under M.C.O.C. Act, the applicant-accused is sentenced to suffer rigorous imprisonment for 10 years apart from payment of fine of Rs.5 Lakhs and in default to undergo simple imprisonment for three years. For the offence punishable under Section 307 read with 120-B of the IPC, he is sentenced to suffer rigorous imprisonment for 7 years and for the offence punishable under Section 387 read with 120-B of the IPC, the applicant-accused is sentenced to suffer rigorous imprisonment for 5 years. The substantive sentence of imprisonment are directed to run concurrently.

3 Heard the learned advocate appearing for the applicant-accused. By drawing my attention to the order dated 7.2.2012 passed by the Hon'ble Apex Court in Special Leave to Appeal (Cri.) No.456 of 2017, the learned advocate argued that as co-accused whose application was also rejected by the common order by this Court is directed to be released on bail, on the principle of parity, the applicant-accused also deserves to be released on bail.

4 The learned APP opposed the application but has not disputed the fact that the co-accused has been released on bail by the Hon'ble Apex Court.

5 I have carefully considered rival submissions and perused the material made available on record. The present applicant-accused as well as co-accused Ravi Punjabi and others were convicted by the trial Court in M.C.O.C. Special Case No.12 of 2010 on 3.2.2015. Both of them have filed appeals before this Court. They have also preferred applications for suspension of sentence and for releasing them on bail. The Criminal Application No.217 of 2015 filed by co-accused Ravi Punjabi and the Criminal Application bearing no.1104 of 2015 filed by the present applicant-accused for suspension of sentence and releasing them on bail came to be decided by common order of this Court on 19th and 20th October, 2016. This Court has rejected both of those applications. Feeling aggrieved by rejection of his application for suspension of sentence and releasing him on bail, co-accused Ravi Punjabi preferred a Special Leave to Appeal (Cri.) bearing no.465 of 2017 and by the order dated 7.2.2017, the Hon'ble Apex Court

was pleased to grant leave and the Special Leave to Appeal came to be allowed by directing release of the co-accused Ravi Punjabi on bail during the pendency of his appeal before this Court.

6 Undisputedly evidence against co-accused Ravi Punjabi and the present applicant-accused is similar and they are convicted for similar offences by the trial Court. The co-accused is already released on bail by the Hon'ble Apex Court and, therefore, the applicant-accused is also entitled for same treatment on the basis of principle of parity and as such, the following order:

- (1) The application is allowed.
- (2) The substantive sentence of imprisonment imposed on the applicant-accused is suspended and he is directed to be released on bail bond in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the Special Court.
- (3) The applicant-accused should produce his latest and full residential address in the concerned Special Court while obtaining bail

and he shall not change his address without prior permission of that Court.

- (4) If the applicant-accused is holding a passport, he shall deposit the same in the concerned Special Court and if he is not holding such passport, he should produce affidavit in that regard before the Special Court.

7 The Special Court shall be entitled to prescribe any further conditions depending on the attendant facts and circumstances.

8 It is made clear that any breach of these conditions would entail to initiate *suo motu* steps for cancellation of the bail granted by this Court.

9 The applicant-accused is permitted to swear affidavit before the jail authorities of Nashik Road Central Prison in compliance of the conditions so imposed on him.

10 The application is disposed of accordingly.

(A. M. BADAR, J.)