

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.482 OF 2017
IN
CRIMINAL APPEAL NO.277 OF 2017**

Vasantrao Mahadeo Kurade ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

.....

Mr.Umesh Pawar, Advocate for the Applicant.
Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 3rd APRIL 2017.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. The applicant/original accused No.2 is sentenced to suffer rigorous imprisonment for three years and six months for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 ("P.C.Act" for short) and no separate sentence has been imposed on him though the offence punishable under Section 13(1)(d) r/w. 13(2) of the P.C.Act is held to be proved against him.

2 Heard the learned Advocate appearing for the applicant/accused. He argued that short sentence of three years and six months is imposed on the applicant/accused. At the relevant time, the applicant/accused was serving as a peon at the City Survey Office at Chikurde. The learned Advocate further argued that the applicant/accused has already deposited the fine amount and hearing of the appeal will take its own time.

3 The learned Additional Public Prosecutor opposed the application by contending that the offence alleged is held to be proved against the applicant/accused.

4 Considering the fact that the applicant/accused is a public servant and not likely to abscond during pendency of the appeal and that short sentence of three years and six months is imposed on him, so also the fact that the appeal will take its own time for final hearing, the applicant is entitled for relief claimed. He was on bail during the trial.

5 The applicant has also prayed for suspension of conviction. He is held to be guilty of the offences punishable under Section 7 and 13(1)(d) read with Section 13(2) of the P.C.Act. In view of the Judgment of the Honourable Apex Court in the matter of *Shyam Narain Pandey v. State of Uttar Pradesh* reported in (2014) 8 SCC 909, conviction in such offence cannot be stayed. As such, the order :

- (i) The application is partly allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant is suspended and he is directed to be released on bail during pendency of the appeal on executing PR bond of Rs.15,000/- and and on furnishing surety in the like amount.
- (iii) Prayer for stay for conviction is rejected.
- (iv) Parties are directed to act upon authenticated copy of the order.

(A.M.BADAR J.)