

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 630 OF 2017
IN
CRIMINAL APPEAL NO. 380 OF 2017**

Ravindra Janak Gundolkar. ... Applicant.
Versus
The State of Maharashtra & anr. ... Respondents.

Mr. Abhishek Yende, advocate for Applicant.

Mr. S.R. Agarkar, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : MAY 2, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State.

2 This is an application under section 389 of the Code of Criminal
Procedure, 1973 seeking suspension of substantive sentence imposed
on the applicant. The applicant herein is convicted for the offence
punishable under section 135 of the Electricity Act, 2002 and is

sentenced to suffer R.I. for 2 years and fine of Rs. 5 Lakhs i.e. to suffer S.I. for 6 months by the Additional Sessions Judge(Special Court), Thane in Special Case No. MSCB 128/2008 vide Judgment and Order dated 1st April, 2017.

3 The learned Counsel for the Petitioner submits that the substantive sentence has been suspended. The learned Sessions Judge has stayed the substantive sentence till 3rd May, 2017. The applicant has been sentenced to a short term sentence. The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any condition imposed upon him.

4 Reliance can be placed upon the Judgment of the Apex Court in the case of **Kiran Kumar v/s. State of M.P. reported in 2001 AIR SCW 5130** for seeking suspension of substantive sentence during the pendency of the appeal which cannot be heard at the earliest thereby causing the prayer to become infructuous.

5 In view of this, the application deserves to be allowed. Hence the following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is suspended. The applicant be released on bail on furnishing P.R. bond in the sum of Rs. 25,000/- and one or more sureties in the like amount.
- (iii) The applicant shall report to the Additional Sessions Judge, Thane once in 6 months on the date specified by the concerned Court. Upon failure to attend two consecutive dates by the applicant, the prosecution is at liberty to move for cancellation of bail.

6 The Application is disposed of on the above terms.

Parties to act on the authenticated copy of this order.

(SMT. SADHANA S. JADHAV,J)