

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

**CRIMINAL APPLICATION NO. 739 OF 2017
IN
CRIMINAL APPEAL NO. 448 OF 2017**

Sanjid A. Gafar SaheblalApplicant
Versus
The State of MaharashtraRespondent

Mr. Tassawar Sagari for the applicant.
Mr. Vinod Chate, APP for the respondent/State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 09th OCTOBER, 2017***

P.C. :

1. The applicant herein was an accused in Special (M.S.E.B.) Case No. 01 of 2009 on the file of Additional Sessions Judge-4, Solapur. By this application, the applicant herein has sought suspension of execution of sentence imposed vide judgment and order dated 17th April, 2017 in the said case.

2. Heard the learned counsel for the applicant and the learned APP for the State. Perused the record and considered the submissions advanced by the learned Counsels for the respective parties.

3. The applicant herein was prosecuted for offences punishable under Section 420 and 170 of the Indian Penal Code and Section 138 of Electricity Act, 2003. By judgment dated 17th April, 2017, the

applicant/accused has been convicted for offence punishable under Section 420 of Indian Penal Code and sentenced to suffer three years simple imprisonment and to pay fine of Rs. 5,000/- in default to suffer further simple imprisonment for six months. The applicant is also convicted for offence punishable under Section 170 of the Indian Penal Code and sentenced to suffer one year simple imprisonment and to pay fine of Rs.1,000/- in default to suffer further simple imprisonment for three months. Aggrieved by the said conviction and sentence, the applicant has preferred this appeal and pending the appeal, he has sought suspension of execution of sentence.

4. By order dated 15th May, 2017, this Court had by way of ad-interim relief, suspended execution of substantive sentence of imprisonment subject to the applicant furnishing a P.R. bond in the sum of Rs.25,000/- . The learned counsel for the applicant submits that the applicant has already complied with the said order and deposited the fine amount before the Additional Sessions Court, Solapur.

5. The records reveal that the applicant has been sentenced to undergo short term imprisonment of three years. The appeal is of the year 2017 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases. Hence, rejection of the application will result in the applicant undergoing the sentence of imprisonment even before the appeal is heard on merits.

6. The applicant was on bail during the pendency of Special (M.S.E.B.) Case No. 01 of 2009. There is nothing on record to indicate that the applicant has violated the terms and conditions of the order.

7. Considering the aforesaid facts, as well as the nature of allegations levelled against the applicant, in my considered view, this is a fit case to suspend the execution of sentence pending the disposal of the appeal on merits. Hence, the order :-

(i) The execution of substantive sentence imposed vide judgment dated 17th April, 2017 in Special (M.S.E.B.) Case No. 01 of 2009 is suspended till the disposal of the appeal on merits. The bail bond furnished before the Additional Sessions Court, Solapur in terms of order dated 15th May, 2017 passed by this Court, shall continue till the disposal of the appeal on merits.

(ii) The Criminal Application No.739 of 2017 stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)