

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

CRIMINAL BAIL APPLICATION NO. 1273 OF 2017

Maharukh Zarir Suraliwala

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Sandeep R. Karnik for the applicant.

Mr. M. G. Patil, APP for the respondent - State.

CORAM : PRAKASH D. NAIK, J.
DATE : 14 JULY, 2017

P.C. :

1. Leave to amend. This is an application for suspension of sentence imposed by the Court of Chief Metropolitan Magistrate, Esplanade, Mumbai vide judgment and order dated 29th September, 2016 in C.C. No.614/PW/2016. The applicant has been convicted for offence under sections 409 of IPC and sentenced to suffer imprisonment for five years and also to pay fine of Rs.50,000/-. The applicant is also convicted under section 66(C) of Information Technology Act and sentenced to suffer three years imprisonment with fine of Rs.50,000/-. The substantive sentences are directed to run concurrently.

2. The applicant had preferred an appeal before the Sessions Court being Criminal Appeal No.841 of 2016. The said appeal has been admitted by the Sessions Court. However, the application of suspension of sentence and bail has been rejected by order dated 14th December, 2016.

3. The Court while rejecting the said application, has taken into consideration the the submissions advanced by the learned APP that the hearing of the appeal can be expedited and the applicant had played major role by committing criminal breach of trust of Rs.1,67,93,150/-. It is also observed that the applicant had misused her ID and the appeal has been recently admitted.

4. Learned advocate for the applicant submitted that although the appeal was admitted on 13th December, 2016, the appeal has not been heard by the Sessions Court till today. Even the record and proceedings are not received by the Appellate Court. It is further submitted that the applicant is a lady who is in custody since 29th December, 2015. The appeal has been admitted by the Sessions Court and the same will be dealt with on merits in due course. It is also submitted that the fine amount imposed by the trial Court has already been deposited before the trial Court.

5. Learned APP opposed the application for bail. He reiterated the submissions advanced before the appellate Court. It is submitted that the applicant has played vital role and has committed serious crime of defalcation of amount as the applicant was working as a loan manager in the bank which position has been misused by her.

6. Perused the impugned judgment and the documents on record. The appeal has been admitted by the Sessions Court. The applicant has been convicted for an offence under section 409 of IPC and 66(C) of Information and Technology Act. The maximum punishment imposed vide the judgment an order of conviction is five years. The applicant is in custody for one and half year. The applicant is a lady. Considering the aforesaid circumstances, the sentence imposed by the trial Court can be suspended and applicant can be released on bail.

:: ORDER ::

- (i) During the pendency of the appeal preferred by the applicant before the Sessions Court i.e. Criminal Appeal No.841 of 2016, the sentence imposed by the trial Court is suspended and the applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees

Twenty Five Thousand only.) with one or more sureties in the like amount.

(iii) The applicant is directed to surrender her passport if not surrendered before the trial Court.

(iv) The applicant is permitted to furnish cash security for a period of six weeks in lieu of sureties.

(iv) Application stands disposed of.

[PRAKASH D. NAIK, J.]