

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1141 OF 2017
WITH
CRIMINAL APPLICATION NO.1142 OF 2017
IN
CRIMIAL APPEAL NO.666 OF 2017

Omprakash Shitalprasad Tiwari ...Applicant
Versus
Central Bureau of Investigation & Anr. ...Respondents

Mr. S.U.Marwadi i/b Sandeep R.Karnik for the Appellant
Mr. H.S.Venegaonkar Addl.PP for the State.

CORAM: SMT.ANUJA PRABHUDESSAI,J
DATED: 18th AUGUST, 2017

PC:-

1. By these Applications the Applicant has sought bail and suspension of execution of substantive sentence imposed by judgment dated 12.7.2017 in Special (CBI) Case No.41 of 2007 passed by Sessions Judge(CBI) for Greater Bombay for the offences punishable under Sections 7 and 13(1)(d) r/w Section 13(2) of the Prevention of Corruption Act,1988.

2. The Applicant has been convicted for the offences punishable under Sections 7 and 13 (1)(d) r/w Section 13(2) of Prevention of Corruption Act,1988 and sentenced to undergo maximum imprisonment for a period of two years and to pay total fine of Rs.3,000/-.

3. Heard Mr.Marwadi the learned Counsel for the Applicant and Shri.Venegaonkar Additional PP for the Respondent. I have perused the record and considered the submissions advanced by the learned Counsels for the respective parties.

4. The record reveals that the Applicant has been sentenced to undergo a maximum sentence of two years and to pay total fine of Rs.3,000/-. The learned Counsel for the Applicant submits that the fine amount has already been deposited before the Special Court. The Applicant has been sentenced for a short term imprisonment. There are several old appeals pending and due to the large pendency of the

Appeals this Appeal is not likely to come up for final hearing in next couple of years. In the event, the suspension of execution of sentence is not suspended, the Applicant may have to undergo the entire term of imprisonment even before the Appeal is heard on merits. The Applicant was on bail during the pendency of the trial. There are no allegations about his violating any terms and conditions of the bail. Considering all the facts and so also the nature of charge and the evidence in support thereof, in my considered view the Applicant's execution of substantive sentence is required to be stayed. Hence, the following order:

ORDER

(i) The execution of substantive sentence imposed by judgment and order dated 12.7.2017 in Special (CBI) Case No.41 of 2007 is hereby suspended till final hearing and disposal of the Appeal, subject to the Applicant furnishing bail bonds of Rs.15,000/- (Rs. Fifteen Thousand only) with one or two sureties to the like amount to the satisfaction of Special Judge (CBI) Court Room No.53 Greater Mumbai.

(ii) The Applicant shall furnish his contact number and his permanent as well as local address, if any, and shall intimate change of address, if any, to the Investigating Officer, as well as to the concerned Court.

(ANUJA PRABHUDESSAI,J)