

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

**CRIMINAL APPLICATION NO.1660 OF 2017
IN CRIMINAL APPEAL NO.1015 OF 2017**

Rajendra Dnyandev Raikar ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Sanjay D.Gaikwad for the applicant.

Mr.A.R.Kapdnis APP for the State.

**CORAM: A.M. BADAR, J.
DATED: 15th DECEMBER 2017**

PC:-

1. This is an composite application for suspension of sentence as well as conviction recorded by the learned Special Judge in Special Case No.11 of 2009 by the judgment and order dated 27.11.2017. The learned Special Judge under Prevention of Corruption Act, 1988 was pleased to convict the applicant/accused of offences punishable under Sections 7,13(1)(d) ii r/w 13 (2) of the Prevention of Corruption

Act, 1988. The applicant/accused is sentenced to suffer simple imprisonment for one year for the offence punishable under section 7 of the Prevention of Corruption Act, 1988 and that of two years for the offence punishable under Sections 13(1) (d) 13(ii) r/w 13(2) of the Prevention of corruption Act.

2. The learned Advocate for the applicant/accused argued that short sentence of imprisonment is imposed on the applicant/accused and he is already on bail. Therefore, the application needs to be allowed.

3. The learned APP opposed the application by contending that the conviction cannot be stayed.

4. I have carefully considered the rival submissions and also perused the impugned judgment and order of conviction. Short sentence of imprisonment is imposed on the applicant/accused/public servant. The appeal filed by him is not likely to be heard in the near future. Therefore the

applicant is entitled to be released on bail by suspending the sentence.

5. However, so far as the suspension of conviction is concerned, the law on this aspect is very clear in the matter of *Shyam Narain Pandey v. State of U.P.*, (2014) 8 SCC 909. Conviction under the Prevention of Corruption Act recorded in the instant case cannot be suspended. Therefore, the following order:

ORDER

- i) The application is partly allowed
- ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- iii) Prayer for suspension of conviction is rejected.

(A.M. BADAR, J)