

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 2005 OF 2018
IN
CRIMINAL APPEAL NO. 1483 OF 2018

Vinayak Lahu Kamble. ..Applicant.

V/s.

The State of Maharashtra. ..Respondent.

Mr. Sumant Deshpande I/b. Mr. Satyavrat Joshi, advocate for applicant.

Mr. S.H. Yadav, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : DECEMBER 10, 2018.

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, 1908. The applicant herein is convicted by Special Judge, Kolhapur in Special Case No. 6 of 2013 vide Judgment and order dated 01/12/2018 for offence punishable under section 7 and 13(1)(d) read with section 13(2) of the Prevention of Corruption Act and is sentenced to suffer R.I. for one year on each count and to pay fine of Rs. 10,000/- in default to suffer S.I. for one month on each count.

3 The learned Counsel for the applicant submits that the applicant had been on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. It is submitted

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that the substantive sentence has been suspended by the Special Court to enable the applicant to file an appeal. The sentence imposed upon the applicant is short term sentence. Hence, in view of the Judgment of the Hon'ble Apex Court in the case, Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130, the applicant deserves to be enlarged on bail. It is made clear that suspension of substantive sentence shall not be construed as suspension of conviction.

3 Hence, the following order is passed :

ORDER

(i) The application is allowed.

(ii) The substantive sentence passed by Special Judge, Kolhapur vide Judgment and Order dated 1/12/2018 in Special Case No. 6 of 2013 is hereby suspended. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall report to the Court of Special Judge, Kolhapur once in 6 months on the date assigned by the learned Special Judge. Upon failure to attend on two consecutive dates, the Special Court, Kolhapur shall make report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

4 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]