

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 977 OF 2017****IN****CRIMINAL APPEAL NO. 79 OF 2016****WITH****CRIMINAL APPLICATION NO. 1269 OF 2017****IN****CRIMINAL APPEAL NO. 79 OF 2016**

Prashant Prasad Rao @ Sunny

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Kartik Garg, Appointed Advocate for the Applicant.

Mr. V.V. Gangurde, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 16th MARCH, 2018.****P.C.:-**

Application No. 977 of 2017 is received through Jail, for bail. By an Order dated 16th April, 2016, Advocate Mr. Kartik Garg was appointed to espouse the cause of the Applicant. Mr. Garg, the learned Advocate thereafter filed aforesaid detailed Application No. 1269 of 2017 for bail.

2 The Applicant is the Original Accused No.3 and is convicted for the offences punishable under Sections 387, 506 part-II, 307 r/w 120-B of the Indian Penal Code and under Section 3 r/w 25

of the Arms Act and under Section 37/135 of the Bombay Police Act and also under Sections 3(1)(ii), 3(2) and 3(4) of the MCOC Act, 1999 and is sentenced to suffer maximum rigorous imprisonment for 10 years, on each count by the learned Special Judge under the MCOC Act, Greater Mumbai in MCOC Special Case No. 2 of 2012 by its Judgment and Order dated 17th November, 2014. The Trial Court has directed that all the substantive sentences to run concurrently.

3 Mr. Garg, the learned counsel appearing for the Applicant submitted that, in the present crime the Applicant was arrested on 14th October, 2011 and since then he is in jail. He is submitted that the Applicant has already undergone actual imprisonment of 6 years and 5 months as of today. He further submitted that, as the Applicant has practically completed more than 60% of the sentence, the Applicant is entitled to be released on bail. In support of his contention, the learned counsel relied on the decision of the Hon'ble Supreme Court reported in MANU/SC/1412/2013 in the case of Ramnik Singh Vs. Intelligence Officer, Director of Revenue Intelligence.

4 The learned APP conceded to the said factual aspect that the Applicant has undergone more than 60% of the sentence as of today. The possibility of the present Appeal being taken up for

hearing in the near future is remote and as the Applicant has already undergone more than 60% of the sentence, I am inclined to suspend the sentence of the Applicant during the pendency of the Appeal and release him on bail. Hence the following order.

- a) During the pendency of the Appeal, the substantive sentence imposed upon the Applicant is suspended. The Appellant/Applicant be released on bail in MCOC Special Case No. 2 of 2012 on his furnishing PR bond of Rs.50,000/- (Rupees Fifty Thousand only) with one or two solvent local sureties in the like amount.
- b) During the pendency of the Appeal, the Applicant shall attend the office of ACB, CID, Unit 3, Mumbai on every first Monday of the month between 11.00 a.m. to 2.00 p.m. and shall mark his presence.
- c) It is made clear that, any two consecutive defaults in complying with the aforesaid condition by the Applicant, would attract the provisions for cancellation of bail.

5 Application No. 977 of 2017 is allowed in the

aforesaid terms.

6 In view of Order passed in Application No. 977 of 2017, the Criminal Application No. 1269 of 2017 for similar relief does not survive and is accordingly disposed off.

(A.S. GADKARI, J.)