

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

**CRIMINAL APPLICATION NO.1729 OF 2018
WITH
CRIMINAL APPLICATION NO.1730 OF 2018**

**IN
CRIMINAL APPEAL NO.1217 OF 2018**

Smt. Kashmira Chetan Kumar Gaglani Applicants
& Anr.

Vs.

The State of Maharashtra & Anr. Respondents

Mr. Shailesh Kumar for the appellant.

Mr. S.S. Pednekar, APP for State.

Mr. H.S. Venegaonkar for the Respondent-CBI.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 14th December 2018

P.C.:

1 Heard the respective counsel.

2 These are the applications under Section 389 Code of Criminal Procedure. The applicants herein are the original accused nos. 5 and 2 in Special Case No. 32 of 2007. By the judgment and order dated 30th August 2018, the applicants are convicted by the

Special Judge (CBI), Greater Bombay for the offences punishable under Sections 120-B of Indian Penal Code and sentenced to suffer rigorous imprisonment for a period of one year and to pay a fine of Rs.3,000/- each, in default to suffer rigorous imprisonment for two months. For the offence punishable under Sections 420 read with 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for a period of two years and to pay a fine of Rs.3,000/- each, in default to suffer rigorous imprisonment for three months., for the offence punishable under Section 467 read with 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for a period of two years and to pay a fine of Rs.3,000/- each, in default to suffer rigorous imprisonment for three months., for the offence punishable under Sections 468 read with 120-B of Indian Penal Code and sentenced to suffer rigorous imprisonment for a period of two years and to pay a fine of Rs.3,000/- each, in default to suffer rigorous imprisonment for three months, for the offence punishable under Sections 471 read with 120-B of the Indian Penal Code and sentenced to suffer rigorous

imprisonment for a period of two years and to pay a fine of Rs.3,000/- each, in default to suffer rigorous imprisonment for three months and for the offence punishable under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act and sentenced to suffer rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- each in default to suffer rigorous imprisonment for three months and that all the sentences would run concurrently.

3 Learned counsel for the applicants submits that the applicants were on bail during the pendency of the trial and have not committed breach of any conditions imposed upon them. It is also submitted that the applicants have been sentenced to a short term sentence and that there is no possibility of the appeal being finally heard in the near future.

4 In view of the judgment of the Hon'ble Apex Court in the case of **Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130**, the substantive sentence imposed upon the applicants deserve to be suspended during the pendency of the appeal. In view of above,

taking into consideration that the sentence imposed upon the applicants is a short term sentence, it would be a fit case for suspension of the substantive sentence. However, it is made clear that the suspension of substantive sentence shall not be construed as suspension of conviction. Hence, the following order.

ORDER

- i) The applications are allowed and disposed of.
- ii) The substantive sentence imposed upon the applicants vide judgment and order dated 30th August 2018 is hereby suspended.
- iii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.
- iv) The applicants shall report to the Special Court (CBI), Greater Bombay once in six months on the date assigned by the Special Judge.
- v) Upon failure to attend any two consecutive dates, the Special Court shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

(*Smt. Sadhana S. Jadhav, J*)