

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 1115 OF 2017****IN****CRIMINAL APPEAL NO. 1012 OF 2014**

Riyaz Ahmad Hussain Shaikh @ Bhaiji

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Nitin Sejpal for the Applicant.

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

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

Heard Mr. Sejpal, the learned counsel appearing for the Applicant and the learned APP for the Respondent State.

2 The Applicant is the Original Accused No.1 and is convicted for the offences punishable under Section 387 r/w 120-B of the Indian Penal Code and also under Section 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. Sejpal, 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.

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 is allowed in the aforesaid terms.

(A.S. GADKARI, J.)