

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1670 OF 2018

IN

CRIMINAL APPEAL NO.288 OF 2015

Hargbahaddur Lagbahadur Bhandari @ Raju **...Applicant**

V/s.

The State of Maharashtra **...Respondent**

Mr.Nitin Sejpal a/w. Mrs.Pooja N. Sejpal, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent – State.

Mr. Tanaji Kolthe, PSI, Oshiwara Police Station.

CORAM : A.M.BADAR, J.

DATED : 28th NOVEMBER 2018.

P.C. :

1. This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. The applicant/accused no.5 is convicted of offences punishable under Section 387 read with 120B of the Indian Penal Code as well as under Sections 3(2) and 3(4) of Maharashtra Control of Organized Crimes Act, 1999, (MCOC

Act) in MCOC Act Special Case No.12 of 2010 on 3rd February 2015 by the learned Special Judge under the MCOC Act, Greater Mumbai. For the offence punishable under Section 387 of the Indian Penal Code, the applicant/accused is sentenced to suffer rigorous imprisonment for 5 years apart from payment of fine of Rs.5,000/- and default sentence of 1 year. For the offence punishable under Section 3(2) of the MCOC Act, the applicant/accused no.5 is sentenced to suffer rigorous imprisonment for 10 years apart from payment of fine of Rs.5 lakh and default sentence of simple imprisonment for 3 years. For the offence punishable under Section 3(4) of the MCOC Act, the applicant/accused no.5 is sentenced to suffer rigorous imprisonment for 10 years apart from payment of fine of Rs.5 lakh and default sentence of simple imprisonment for 3 years.

2. Heard the learned counsel appearing for the applicant/accused no.5 Hargbahaddur Lagbahadur Bhandari @ Raju. He drew my attention to the order passed by the Honourable Supreme Court in Special Leave to Appeal (Crl.) No.456 of 2017 on 7th February 2017 and argued that co-accused

viz. accused no.7 Ravi Punjabi having similar role is directed to be released on bail by the Honourable Supreme Court. It is further argued that relying on the very same order of the Honourable Supreme Court, this court vide order dated 12th April 2017 was pleased to release accused Narendra Soni on bail. It is further argued that even accused No.3 Paresh Nepal having similar role is released on bail by this Court on 17th September 2018. Therefore, the applicant/accused also deserves to be granted similar treatment.

3. The learned APP opposed the application by contending that the present applicant/accused had given confessional statement and therefore, his complicity in the crime in question is duly established after trial of the case, and therefore, he is not entitled to be released on bail.

4. I have carefully considered the rival submissions and also perused the material made available on record.

5. Undisputedly, accused no.7 Ravi Punjabi is released on bail vide order of the Honourable Supreme Court dated 7th February 2017 in Special Leave to Appeal (Crl.) No.456 of 2017. The case

of the present applicant/accused is also at par with the case against the said applicant/accused no.7 Ravi Punjabi. Hence, on the principle of parity, the applicant/accused also deserves to be released on bail. Therefore the order :

ORDER

- i) The application is allowed by suspending the substantive sentence of imprisonment imposed on the applicant/accused.
- ii) The applicant/accused is directed to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with two sureties of the like amount to the satisfaction of the Special Court.
- iii) The applicant/accused shall produce his latest and full residential address in the concerned Special court while obtaining bail and he shall not change his address without the prior permission of the court.

- iv) If the applicant/accused is holding a passport, he shall deposit the same in the concerned Special court and if not, he should produce affidavit in that regard.
- v) The application is accordingly disposed off.

(A.M.BADAR J.)