

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

**CRIMINAL APPLICATION NO.667 OF 2016  
IN  
CRIMINAL REVISION APPLICATION NO.651 OF 2016**

|                          |               |
|--------------------------|---------------|
| Satish Parshuram Patil   | .. Applicant  |
| <b>Vs.</b>               |               |
| The State of Maharashtra | .. Respondent |

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Mr.Karl Rustomkhan i/b. Mr.Rahul S. Arote, Advocate for the Applicant.  
Mrs.M.R. Tidke, APP for the Respondent - State.

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**CORAM : PRAKASH D. NAIK, J.**

**DATED : JANUARY 10, 2018.**

**P.C. :**

The applicant has preferred this application challenging the judgment and order dated 15<sup>th</sup> November, 2014, passed by the learned Metropolitan Magistrate, 53<sup>rd</sup> Court, Kurla, Mumbai in C.C. No.13/PW/2007 as well as the judgment and order dated 9<sup>th</sup> November, 2016, passed by the Special Judge (CBI) in Criminal Appeal No.1123 of 2014.

2           The applicant has been convicted for the offence punishable under Section 381 of the Indian Penal Code (IPC) and

sentenced to suffer rigorous imprisonment for five months and to pay fine of Rs.2,000/-. In default of payment of fine amount, he has to suffer further rigorous imprisonment for 15 days. The applicant was on bail during the trial as well as during the pendency of Appeal. Learned advocate for the applicant submitted that the prosecution has not established that the articles purportedly stolen belongs to the complainant company. It is further submitted that the panchas to the seizure panchanama were not examined by the prosecution. It is further submitted that P.W.1 in his evidence has categorically stated that they have challan to show that the seized property was owned by the company. However, no such challan was produced. The said witness also stated that on the day of incident nobody was working in the store department for the night shift. The learned counsel also pointed out the evidence of PW 2 wherein it is deposed by the said witness that it is true to say that on the entry and exit of goods in the company and from the company we take entry on the challan and that he do not have knowledge on which date the 17 copper strips were brought in the company. He further deposed that he does not have knowledge of exact work in each department of the company and also do not have personal knowledge that prior to the date of incidents 17 strips were

stored in the company. The learned counsel further submitted that the the applicant was working in the company for more than 20 years. Learned APP submitted that there is concurrent finding of two Courts. There is sufficient evidence to convict the applicant and, hence, bail may not be granted to the applicant.

3           Considering the nature of evidence as stated hereinabove, the case of suspension of sentence and grant of bail is made out.

4           Hence, I pass the following order:

**:: ORDER ::**

- (i) The sentence of imprisonment imposed by the learned Metropolitan Magistrate 53<sup>rd</sup> Court, Kurla, Mumbai in C.C. No.13/PW/2007 vide judgment and order dated 15<sup>th</sup> November, 2014 and confirmed by the Special Judge (CBI) vide judgment and order dated 9<sup>th</sup> November, 2016, are hereby suspended and the applicant is directed to be released on bail on furnishing P.R.

Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or more sureties in the like amount;

- (ii) Criminal Application stands disposed of.

**(PRAKASH D. NAIK, J.)**