

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

**CRIMINAL APPLICATION NO.1885 OF 2018
IN
APPEAL NO.1400 OF 2018**

Ravindra Chudaman Barhe Applicant
Vs.
The State of Maharashtra Respondent

Mr. Rushikesh Mundargi I/by Mr. Madan Gupta for the Applicant.
Mr. Y.M. Nakhwa, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 21st November, 2018

P.C.:

- 1 Heard the respective counsel.
- 2 This is an application under Section 389 Code of Criminal Procedure. The applicant herein is convicted by the Additional Sessions Judge-7, Nashik, in Special (ACB) Case No. 8 of 2013, for the offences punishable under Sections 7, 13(1)(d) read with 13(2) of Prevention of Corruption Act, 1988. The applicant is sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.10,000/-, and that the sentences would run concurrently.

3 Learned counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. The applicant has deposited the amount of fine within the stipulated time. The applicant is in custody since 3rd November 2018. It is also submitted that the applicant has 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 applicant deserves to be suspended during the pendency of the appeal. In view of above, taking into consideration that the sentence imposed upon the applicant 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 would not amount to suspension of conviction. Hence, the following order.

ORDER

- i) The application is allowed.

- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 3rd November 2018 is hereby suspended.

- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

- iv) The applicant shall report to the Court of Additional Sessions Judge, Nashik, Special Court 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.

- vi) The application is allowed in above terms and stands disposed of.

(Smt. Sadhana S. Jadhav, J)