

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.590 OF 2019
IN
CRIMINAL APPEAL NO. 578 OF 2019

Mr. Ashok Kumar Shami @ Tushar ..Appellant.

V/s.

1. Central Bureau of Investigation

2. State of Maharashtra ..Respondents.

Mr. Arun Berry for Applicant.

Ms. Ameeta Kuttikrishnan for Respondent.

Mr. S.S. Pednekar for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : APRIL 24, 2019.

P. C. :

1. Heard the learned Counsel for the applicant and the learned APP for State.

2. This is an application u/s. 389 of Cr.P.C. seeking suspension of substantive sentence imposed upon the applicant by the Special Judge(C.B.I.), Greater Bombay vide judgment and order dated 08.02.2019 wherein, the applicant herein was convicted for the offence punishable u/s. 7 of Prevention of Corruption Act, 1988 and has been sentenced to undergo rigorous imprisonment for one year and fine of Rs.2,000/-, in default thereof he shall undergo Simple Imprisonment for 1 month and he was also convicted for the offence punishable and 13 (1) (d) r/w.

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Section 13(2) of Prevention of Corruption Act, 1988 and has been sentenced to undergo Rigorous Imprisonment for 2 years and fine of Rs.10,000/-, in default thereof, he shall undergo Simple Imprisonment for 3 months.

3. The 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 condition imposed upon him. The sentence imposed upon the applicant is short term sentence and hence the applicant is entitled to the extension of same relief during the pendency of the appeal.

4. **It is made clear that suspension of substantive sentence shall not be construed as suspension of conviction.** Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) The substantive sentence imposed upon the applicant vide Judgment and Order dated 08.02.2019 by Special Judge, C.B.I., Greater Bombay in C.B.I. Special Case No.103/2013 is hereby suspended. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

(iii) Upon being enlarged on bail, the applicant shall report to the Court of Special Judge(C.B.I.) , Greater Bombay once in six months on the date assigned by the Learned Special Judge.

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- (iv) Upon failure to attend any two consecutive dates, Learned Special Judge(C.B.I.), Greater Bombay shall make a report to the High Court and prosecution would be at liberty to seek cancellation of bail.
- (v) The application is disposed of accordingly.
- (vi) Parties to act on authenticated copy of this order.

[SMT. SADHANA S. JADHAV, J.]