

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 613 OF 2019
WITH
CRIMINAL APPLICATION NO. 614 OF 2019
IN
CRIMINAL APPEAL NO. 604 OF 2019

Jagdish Sambhaji Dalavi

..Appellant/Applicant

v/s.

The state of Maharashtra

..Respondent

Mr. Rishi Bhuta I/by Mr. Ashish Dubey for Appellant/Applicant.
Ms. Pallavi Dabholkar-APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 30th April 2019.

P.C.

1. Heard.
2. This is an applications filed under Section 389 of Cr.P.C. The applicant herein is seeking suspension of substantive sentence imposed upon him by the Special Judge (Under the P.C. Act), Greater Mumbai in ACB Spl. Case No. 75 of 2014, vide judgment and order dated 3rd of April 2019, thereby convicting the applicant for the offence punishable under section 7 of the Prevention of Corruption Act, 1988 and sentencing to suffer simple imprisonment of three years and to pay fine of Rs. 5000/- (Rs. Five thousand only), in default to pay fine, to suffer simple imprisonment of three

months. He also convicting for the offence punishable under section 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act,. 1988 and sentencing to suffer simple imprisonment of four years anda to pay fine of Rs. 5,000/- (Rs. Five thousand Only), in default to pay fine, to suffer simple imprisonment of three months.

3. The learned counsel for the applicant submits that the applicant was taken into custody on 3rd of April 2019 i.e. on the date of the Judgment. The applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. The sentence imposed upon him is short term sentence and hence the applicant is entitled to the extension of same relief during the pendency of the appeal. **However, it is made clear that suspension of substantive sentence shall not be considered as suspension of conviction.**

4. The bail is granted only on the ground that the substantive sentence imposed upon the applicant is short term sentence and appeal cannot be heard in a short duration. Hence the following order:-

Order

- i) The Criminal Applications are allowed.
- ii) The substantive sentence imposed upon the applicant by the Special Judge (Under the P.C. Act), Greater Mumbai in ACB Spl. Case No. 75 of 2014, vide judgment and order dated 3rd of April 2019 is

hereby suspended.

iii) The applicant be enlarged on provisional cash bail for a period of six weeks within which he shall furnish P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties to the satisfaction of the Special Court.

iv) The applicant shall cause his presence before the the Special Judge (Under the P.C. Act), Greater Mumbai once in six months on the date assigned by the Special Judge (Under the P.C. Act), Greater Mumbai.

v) Upon failure to attend any two consecutive dates, the Special Judge (Under the P.C. Act), Greater Mumbai shall make report to the High Court and the prosecution would be at liberty to seek cancellation of bail.

vi) The applications stand disposed of.

The parties to act on an authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J)