

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

**CRIMINAL APPLICATION NO. 616 OF 2019
IN
CRIMINAL APPEAL NO. 607 OF 2019**

Ashok Shivram Bharati

.. Applicant

V/s

The State of Maharashtra

.. Respondent

Mr. Rajesh Arvind More, advocate for appellant/Applicant.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : APRIL 23, 2019.

P. C. :

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

2 This is an application under section 389 of the Code of Criminal Procedure, 1908 seeking suspension of substantive sentences. The applicant herein is convicted by Special Judge (CBI Court, Bombay) in CBI Special Case No. 9 of 2004 for the offence punishable under sec. 7, 13(1)(d) and 13(2) of Prevention of Corruption Act, 1988 and is sentenced to suffer RI for one year and fine of Rs.2,000/- , in default further RI for two months, he is also convicted for the offence punishable under sec. 13(1)(d) r/w 13(2) of Prevention of Corruption Act, 1988 and is sentenced to suffer RI for one year and six months and fine

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of Rs. 3,000/-, in default further RI for three months, vide Judgment and Order dated 07.03.2019.

3. The learned Counsel for applicant submits that the the applicant was on bail during pendency of the trial and has not committed breach of any conditions imposed upon him. The applicant is public servant and has retired on super annuation as on today. The sentence imposed upon the applicant is a short term sentence. It would not be possible to hear the Appeal within a short span of time and hence applicant deserves to be enlarged on bail. In view of this applicant deserves extension of same relief during the pendency of the Appeal. It is made clear that the suspension of substantive sentence shall not be construed as suspension of conviction.

ORDER

1. The application is allowed.
2. Substantive sentence imposed upon the applicant is hereby suspended. He 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.
3. The applicant shall mark his presence before Special Judge, Alibaug, Raigad once in six months on the date assigned by the learned Special Judge.
4. Upon failure to attend any two consecutive dates, the Special Court shall make report to the High Court and prosecution would be at liberty to seek cancellation of bail.
5. Application is allowed in above terms and stands disposed off.

[SMT. SADHANA S. JADHAV, J.]