

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

**CRIMINAL APPLICATION NO. 720 OF 2019
IN
CRIMINAL APPEAL NO.684 OF 2019**

Tanaji Shrirang Borkar. Applicant.

Vs.

C.B.I., ACB Pune & Anr. Respondents.

WITH

**CRIMINAL APPLICATION NO. 721 OF 2019
WITH
CRIMINAL APPEAL NO.685 OF 2019**

Vishal Rajput @ Ashok Madanraj Nahar
@ Kamlesh Chandru Rao. Applicant.

Vs.

C.B.I., ACB Pune & Anr. Respondents

Mr. Subhash Jha I/b. Law Global Advocates, advocate for applicants.

Ms. Pallavi Dabholkar, APP for State.

None for respondent No. 1.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : MAY 2, 2019.

P.C.:

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

Talwalkar

2. These are the applications under Section 389 Code of Criminal Procedure, 1973 seeking suspension of substantive sentence imposed upon the appellants/applicants by the Special Judge (CBI-ACB), Pune vide Judgment and Order dated 18th April 2019 in CBI (ACB) Case No.69 of 2016,. The applicant Tanaji Borkar is convicted for the offences punishable under Sections 13(1)(d) r/w. 13(2) of the Prevention of Corruption Act and sentenced to suffer R.I. for four years and to pay fine of Rs. 500/- I.d. to suffer imprisonment for one month. He is also convicted for the offence punishable under section 120-B of the Indian Penal Code and sentenced to suffer R.I. for six months and to pay fine of Rs. 500/- I.d. to suffer imprisonment for one month. The applicant Vishal Rajput is convicted for the offence punishable under section 419 of the Indian Penal code and sentenced to suffer R.I. for 3 years. He is also convicted for offence punishable under section 420 r.w. 120-B of the Indian Penal Code and sentenced to suffer R.I. for 3 years and to pay fine of Rs. 500/- I.d. to suffer further imprisonment for one month. Applicant Vishal Rajput is also convicted for the offence punishable under section 467, 468, 471 r.w. 120-B of the Indian Penal Code and sentenced to suffer R.I. for 4 years and to pay fine of Rs. 500/- I.d. to

suffer further imprisonment for one month in each offence respectively.

3. The sentence imposed upon the applicants is a short term sentence. The applicants were on bail during the pendency of the trial and they have not breached any condition imposed upon them.

4. Taking into consideration that the sentence imposed upon the applicants is a short term sentence and it would not be possible to hear the appeal expeditiously. Hence, the applicants deserve the extension of same relief during the pendency of the appeal. It is made clear that suspension of the substantive sentence shall not be construed as suspension of conviction. Hence, the following order.

ORDER

(i) The applications are allowed.

(ii) The substantive sentence imposed upon the applicants vide judgment and order dated 18th April 2019 passed by Special Judge (CBI-ACB), Pune is hereby suspended.

(iii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.25,000/- each with one or more solvent sureties in the like amount.

(iv) The applicants be enlarged on provisional cash bail of Rs. 25,000/- each for a period of 6 weeks from release on bail , within which the applicants shall furnish solvent sureties.

(v) The applicants shall mark their presence before the Special Judge (CBI-ACB), Pune once in six months on the date assigned by the Special Judge.

(vi) Upon failure to attend any two consecutive dates, the Special Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

5 The applications are disposed of accordingly.

Parties to act on authenticated copy of this order.

(Smt. Sadhana S. Jadhav, J)