

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

**CRIMINAL APPEAL NO.694 OF 2019
ALONGWITH
CRIMINAL APPLICATION NO.740 OF 2019**

Nikhil Kamlakar Wadhavkar & Anr. Appellants/Applicants
(Ori. Accused no.1 & 3)

Vs.

The Union of India & Anr. Respondents

Mr. Girish Kulkarni i/by Mr. Kripashankar Pandey for the
appellants/applicants.

Ms. Pallavi N. Dabholkar, APP for State.

**Coram : Smt. Sadhana S. Jadhav, J.
Date : 2nd May 2019**

P.C.:

- 1 Heard the respective counsel.
- 2 Appeal admit.
- 3 The above application is filed under Section 389 Code of Criminal Procedure seeking suspension of substantive sentence imposed upon the appellants/applicants. The applicants herein are convicted by the Special Judge (CBI), CBI Special Court, City Civil & Sessions Court, Greater Mumbai vide judgment and order dated 15th

April 2019 in CBI Special Case No.91 of 2013, for the offence punishable under Section 7 of Prevention of Corruption Act, 1988 read with Section 120-B of Indian Penal Code and individually sentenced to undergo rigorous imprisonment for two years with fine of Rs.10,000/- each, in default to undergo simple imprisonment for three months.

4 The sentence imposed upon the applicants is a short term sentence. The applicants were on bail during pendency of the trial and have not committed breach of any conditions imposed upon them. Hence, they are entitled to the same relief during the pendency of the appeal. **However, it is made clear that suspension of substantive sentence shall not be construed as suspension of conviction.** Hence, the following order.

ORDER

- i) The application is allowed.
- ii) The substantive sentence imposed upon the applicants vide judgment and order dated 15th April 2019 is hereby suspended.
- iii) The applicants be enlarged on bail on furnishing P.R. bonds in the sum of Rs.50,000/- each with one or more solvent sureties in the like amount.

iv) The applicants shall mark their presence before the CBI Special Court, City Civil and Sessions Court, Greater Mumbai once in six months on the date assigned by the Special Judge.

v) 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.

Parties to act on authenticated copy of this order.

(Smt. Sadhana S. Jadhav, J)