**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 1020 OF 2019**

**WITH**

**CRIMINAL APPLICATION NO. 1021 OF 2019**

**IN**

**CRIMINAL APPEAL NO. 889 OF 2019**

Nizamuddin Ismail Surve .. Applicant

Versus

Central Bureau of Investigation and Anr. .. Respondents

…

Mr. Shekhar Sawant for the Applicant.
Ms. Ameeta Kuttikrishnan for Respondent No.1.
Mrs.M.R.Tidke, APP for Respondent No.2/State.

**CORAM: P. N. DESHMUKH, J.**

**DATED : 16TH DECEMBER, 2019.**

**P.C:-**

Heard Learned Counsel for the applicant, Learned Counsel for respondent No.1 and Learned APP for respondent No.2/ State.

2. These applications are for suspension of substantive

sentence imposed upon appellant and for bail, filed by accused No.6, who came to be convicted by the Learned Trial Court by its Judgment in Special Case No.113 of 2010 dated 25th April, 2019, for the offence punishable under Section 420, 466, 467, 468, 471 and 465 read with 120-B of Indian Penal Code, which of the maximum sentence imposed upon the applicant is for the period of three years alongwith fine on above counts. In addition to this, applicant is convicted for the offence punishable under Sections 471, 465, 419 of Indian Penal Code and is sentenced to suffer rigorous imprisonment for two years alongwith fine. All the sentences are directed to run concurrently.

3. It is submitted that applicant was on bail during trial and is imposed with short sentence and though applicant has good case on merits, his appeal is not likely to come up for final hearing in near future. It is, thus, stated that applications be allowed.

4. Learned APP had opposed the applications on the ground that applicant's involvement is established in the present crime and it is, therefore, requested that applications be rejected.

5. Perusal of impugned judgment would reveal that applicant impersonated as Mazeed Akram Naik, while obtaining fake accounts in the name of Autograph Cars (India) Private Limited in Thane Bharat Bank and affixed his photograph and has signed the requisite account opening form, required for opening account as authorized signatory of Autograph Cars (India) Private Limited. KYC documents also shows that same are signed by the applicant. From the evidence of PW-12 Chandrakant Kadam, it is established that applicant is working as a driver. Similarly, the evidence of PW-15 Dnyaneshwar Hirade also established that applicant is a driver. In the background of above evidence, case of prosecution is that accused No.1 Rajendra Patil, on 29th December, 2008, without complying documents obtained bank loan, where accused No.2 was Manager of the Bank.

6. The Learned Trial Judge, after considering the evidence, had noted that it is accused No.1, who is involved in forging documents for commission of present crime by looting the bank by obtaining huge loan and had used such documents at the time of disbursement of loan and relying upon hand writing expert's report, further held that accused No.1 is the only person who has

committed major role in the present crime based on documents by committing forgery.

7. Considering the role of the applicant as aforesaid, applications are liable to be allowed as applicant was on bail pending trial, and is imposed with short sentence. Similarly, accused No.2, the Bank Manager and accused No.9, the Bank employee are on bail on suspending sentence. Hence, the following order;

**ORDER**

(a) Applicant shall be released on bail on his executing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one surety.

(b) While on bail, applicant shall marked his presence with EOW, Mumbai, quarterly on the first day of each such month, pending appeal.

**(P. N. DESHMUKH, J.)**

*Wakodikar*