

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

**CRIMINAL APPLICATION NO.1403 OF 2018
IN
CRIMINAL APPEAL NO.1015 OF 2018**

Kavita Sushil Agarwal & Ors. Applicants

Vs.

The State of Maharashtra & Ors. Respondents

Mr. A.S. Deshmukh for the applicants

Mr. Y.M. Nakhwa, APP for State.

Ms. Ameeta Kuttikrishnan for respondent no.2/CBI.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 16th January 2019

P.C.:

1 Heard the respective counsel.

2 This is an application under Section 389 Code of Criminal Procedure seeking suspension of substantive sentence imposed upon the applicants by the Special Judge (CBI), Greater Bombay in CBI Special Case No. 46 of 2007 vide judgment and order dated 17th July 2018. The accused are convicted for the offence punishable under Sections 120-B of the Indian Penal Code and sentenced to suffer

rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/-, in default to suffer rigorous imprisonment for two months. The accused are further convicted for the offence punishable under Section 420 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/-, in default to suffer rigorous imprisonment for a period of three months.

3 Learned counsel for the applicants submits that the applicants were on bail during the pendency of the trial and have not committed breach of any conditions imposed upon them. It is also submitted that the applicants have been sentenced to a short term sentence and that there is no possibility of the appeal being finally heard in the near future and therefore it is prayed that the applicants be granted extension of the same relief during the pendency of the appeal. 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 and stands disposed of.
- ii) The substantive sentence imposed upon the applicants vide judgment and order dated 17th July 2018 is hereby suspended.
- iii) The applicants be enlarged on bail on furnishing P.R. bond 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 Special Judge (CBI) once in six months on the date assigned by the Special Judge.
- v) Upon failure to attend any two consecutive dates, the Special Court shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.
- vi) Learned counsel for the applicants seeks eight weeks time for furnishing sureties. Liberty as prayed for is granted.

(Smt. Sadhana S. Jadhav, J)