

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.690 OF 2021
IN APEAL/133/2021

SHRIKANT S/O PRABHAKAR PATANGE
VERSUS
THE STATE OF MAHARASHTRA

.....
Mr. K. T. Jamdar, Advocate for applicant.
Mr. S. B. Narwade, APP for respondent – State.

.....

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 18th March, 2021

ORDER :-

. Present application has been filed by original accused No.1 for suspending the sentence imposed upon him by learned Additional Sessions Judge, Latur in Special Case (ACB) No.06 of 2013 dated 17.02.2021. He has been convicted for the offence punishable under Section 7 of the Prevention of Corruption Act (hereinafter referred to as the 'P.C. Act') and thereby sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/-, in default, to suffer further imprisonment for six months. Further, he has been convicted for the offence punishable under Section 13(2) of the P.C. Act and thereby sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/-, in default to suffer further imprisonment for six

months.

2. Heard learned Advocate Mr. K. T. Jamdar for the applicant and learned APP Mr. S. B. Narwade for the respondent-State.

3. It has been vehemently submitted on behalf of the applicant that the applicant has challenged the judgment and order of conviction passed by the learned Sessions Judge by way of an appeal *inter alia* on numerous grounds as set out in the appeal itself and the applicant is having every hope of success therein. It is further submitted that the applicant was on bail amid the trial and, there was no complaint against the applicant during the course of the trial. It is the contention of the applicant that the material contradictions, omissions, improvements and admissions given by the prosecution witnesses in their testimonies, were not taken into consideration by the learned Sessions Judge while imposing the conviction against the applicant. The learned Advocate further argued that the sentence imposed upon the applicant by the learned Special Judge is a short-term sentence. The Trial Court erred in appreciating the facts, circumstances and the evidence put-forth during the trial. The learned Advocate further submits that the appeal involves other legal and technical points/issues, which the applicants/appellants intend to agitate and address them at the time of final hearing of the appeal. Consequently, the applicants pray for enlarging them on bail by

suspending the substantive sentence imposed by the learned Additional Sessions Judge on such terms and conditions as this Court may deem fit and proper.

4. Per contra, learned APP strongly resisted the application and supported the reasons given by the learned Special Judge while convicting and imposing the sentence against the applicant and it is stated that the prosecution has proved the offence beyond reasonable doubt.

5. At the outset, the points which are in favour of the applicant are that he was on bail throughout the trial and he has not misused the liberty granted to him. As it appears from the impugned judgment of the learned Special Judge, particularly the sentence, that has been imposed against the applicant for the offence, in question, is a short term sentence, in view of the decision in the case of ***Kiran Kumar Vs. State of M.P., [(2001) 9 SCC 211]***, a benefit will have to be given to the applicant-appellant when he has demonstrated that the material and significant points raised by him in the appeal are required to be pondered at the time of final hearing of the appeal. In this view of the matter, it can be said that a case is definitely made out for releasing the applicant on bail by suspending the substantive sentence during pendency and final disposal of the appeal. Hence, the following order :-

ORDER

1. The Criminal Application stands allowed.
2. The substantive sentence, imposed upon the applicant by learned Additional Sessions Judge-6, Latur in Special Case (ACB) No.06 of 2013 vide judgment and order dated 17.02.2021, is hereby suspended till hearing and final disposal of the appeal.
3. The applicant be released on P. R. Bond of Rs.30,000/- (Rupees thirty thousand) with two sureties of Rs.15,000/- (Rupees fifteen thousand) each.
4. The applicant shall not indulge in any criminal activity.
5. The applicant shall remain present before the learned Trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail paper/s and, thereafter, the Trial Judge to fix dates for the subsequent appearances.
6. In case of two consecutive defaults on the part of the applicant to remain present before the Trial Court, the Trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.
7. Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]