

3. Learned counsel for applicant submitted that during pendency of trial, the applicant was never arrested. His custody was not sought for the purpose of investigation. The maximum sentence awarded while convicting the applicant is for a period of ten years. In the other cases for which the applicant was tried separately and convicted, the maximum sentence was four years and the sentence of imprisonment has been suspended. The accused no.2 has also preferred appeal against conviction and considering the fact that he was sentenced to imprisonment for four years, this Court had suspended the sentence and granted bail to the co-accused. The applicant has good case on merits. There are discrepancies in evidence. The applicant is in custody from the date of conviction i.e. 18th February 2020. Reliance is placed upon decision of Hon'ble Supreme Court of India in case of **Bhagwan Rama Shinde Gosai and others Vs. State of Gujarat (1999)4-SCC-421** wherein the Supreme Court considered the fact that in the event of fixed term of sentence, the Appellate Court shall consider grant of bail. The applicant undertakes to deposit the fine amount as a condition precedent for suspension of sentence. The total fine amount imposed in all the cases in which he is convicted, is to the tune of Rs.24 lakh.

4. Mr.Venegaonkar appearing for Respondent opposed suspension of sentence. He submitted that in other cases the sentence is suspended by considering the fact that sentence of imprisonment awarded of conviction, was of four years. There is sufficient material against applicant in the present case to establish prosecution case and the Trial Court has convicted the applicant. Considering the fact that huge amount was involved, the applicant has been convicted for

ten years. In view of the fact that applicant has been sentenced to 10 years imprisonment, only in the event that appeal is not heard, in the light of Supreme Court judgment, the sentence can be suspended. Considering the seriousness of the offences for which the applicant is convicted, sentence may not be suspended.

5. The appeal challenging the judgment of conviction has been admitted by this Court. The appellant has contended that there are discrepancies in evidence and there is challenge to the judgment of conviction. It is pertinent to note that the appellant has been convicted for separate offences registered while he was being tried separately wherein the sentence of four years imprisonment was awarded. In all those cases the appellant has been granted bail by suspending sentence. The co-accused in this case has also been granted bail by suspending sentence. In the light of factual aspects of the matter and also considering the fact that the appeals may not come up for hearing immediately, the sentence can be suspended and bail can be granted to the applicant-appellant. Hence, I pass following order :

ORDER

- (i) Interim Application No.431 of 2021 is allowed and disposed of;
- (ii) The sentence of imprisonment imposed vide judgment and order dated 18th February 2020 passed by Special Judge, CBI, ACB, Pune in Special Case No.83 of 2018, is suspended during pendency of Criminal Appeal No.364 of 2020 and the applicant is directed to be released on bail on executing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) The applicant shall deposit fine amount of Rs.24,00,000/-

awarded in all the cases as a condition precedent for his release on bail on suspension of sentence;

(iv) The applicant is permitted to execute provisional cash bail in the sum of Rs.50,000/- for a period of eight weeks. It should be substituted by surety within stipulated period.

(PRAKASH D. NAIK, J.)

MST