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

***CRIMINAL INTERIM APPLICATION NO.1197 OF 2021
IN
CRIMINAL APPEAL NO. 331 OF 2021***

Santoshkumar Pannalal Tiwari ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. N. S. Mundargi i/b Mr. Advait U. Shukla, for the Applicant.

Ms. S. V. Sonawane, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 8th APRIL, 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.
3. The Applicant vide Judgment and Order dated 30th March 2021, passed by learned District Judge-6 and Additional Sessions Judge, Thane, in Special MPID Case No.01 of 1999, has been convicted and

sentenced as under:-

- for the offence punishable under Section 420 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors Act, to suffer rigorous imprisonment for 5 years and to pay fine of Rs.50 lakhs, in default of payment of fine, to undergo simple imprisonment for 1 year.

4. Learned Counsel for the applicant submits that the learned Judge has erred in directing payment of Rs. 50 lakhs as fine. He submits that out of the 41 witnesses examined by the prosecution, 23 witnesses have clearly stated in their evidence that they have received their amounts and that they have no grievance against the applicant; although 9 witnesses in their examination-in-chief had stated that they have not received the amount, in their cross-examination, they have admitted to having received the amounts. He submits that only 5 witnesses have stated that they have not received the amounts from the applicant and that the said amount comes to about Rs.5,15,000/-. Learned Counsel relied on para 58 of the impugned order, in support of his submission. He submits that the learned Judge has observed that if the said amounts would have been invested by the said persons, the amount would have been doubled in 20 years. Learned Counsel for the applicant submits that the applicant, without

prejudice, is ready to deposit Rs.20 lakhs, in the trial Court, if given sufficient time. Statement accepted.

5. The applicant's Appeal has been admitted by this Court vide order dated 5th April 2021 and the same is not likely to come up for the hearing in the immediate near future. The sentence awarded is a short term sentence. It is not in dispute that the applicant was on bail, pending trial and that he has not abused or misused the liberty granted to him.

6. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms and conditions :

ORDER

- i) The Applicant be released on cash bail in the sum of Rs.25,000/-, for a period of four weeks;
- ii) The Applicant shall within the said period of four weeks, furnish P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount;
- iii) The Applicant shall deposit Rs.20 lakhs in the trial Court i.e. Rs. 10 lakhs within eight weeks from the date of his release and the balance

amount of Rs.10 lakhs within eight weeks thereafter;

iv) The Applicant shall report to the trial Court, once in four months on the day/date specified by the trial Court, till his Appeal is finally disposed of;

v) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

vi) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.