IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1356 OF 2021
(FOR SUSPENSION OF SENTENCE)
WITH
INTERIM APPLICATION NO. 1357 OF 2021
(FOR BAIL)
WITH
INTERIM APPLICATION NO. 1404 OF 2021
IN
CRIMINAL APPEAL NO. 426 OF 2021

Snehalata Samdarshi Jaiswal ...Applicant
Versus
Central Bureau of Investigation & Anr. ...Respondents

Mr. Shirish Gupte, Sr. Advocate with Mr. Vinay J. Bhanushali for the Applicant

Ms. Ameeta Kuttikrishnan for the Respondent No.1-CBI/EOW

Mr. S. V. Gavand, A.P.P for the Respondent No.2–State

CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
WEDNESDAY, 30th JUNE 2021

P.C. :

1 Heard learned counsel for the parties.

2 By these applications, the applicant seeks stay on directions for transfer of funds from the applicant's accounts to the Government

(IA/1404/2021), suspension of her sentence (IA/1356/2021) and enlargement on bail (IA/1357/2021), pending the hearing and final disposal of the appeal.

3 The applicant (original accused No. 4), along with the other co-accused, vide judgment and order dated 24th March 2021, passed by learned Special Judge (CBI), Greater Bombay, in CBI Special Case No. 21/2002, has been convicted and sentenced as under:

- for the offence punishable under Sections 120-B, 471 r/w 120-B of the Indian Penal Code, to suffer rigorous imprisonment for 2 years for each offence and to pay fine of Rs.40,00,000/- each for respective offences, total amount of Rs. 80,00,000/-, in default, to undergo simple imprisonment for 6 months for each offence;

- for the offence punishable under Sections 420, 466, 467, 468 r/w 120-B of the Indian Penal Code, to suffer rigorous imprisonment for 3 years for each offence and to pay fine of Rs.75,00,000/- each for respective offences, total amount of Rs. 3 crores, in default, to undergo simple imprisonment for 1 year for each offence;

The aforesaid sentences were directed to run concurrently.

4 Learned senior counsel for the applicant submits that the applicant was prosecuted along with her deceased husband i.e. accused No. 2-Samdarshi Jaiswal, who expired in 2015, during the trial. He submits that the applicant cannot be held liable for the acts and deeds of her husband i.e. accused no. 2, as accused No. 2 was running the business, and that the applicant was merely shown as the Director, of accused No. 1 Company-M/s. KMP Syntex Pvt. Ltd., on paper. He submits that the Customs Department had issued notice to the applicant's husband and that no show-cause notice was ever issued to the applicant nor any of her assets were attached. Learned senior counsel for the applicant further submits that the applicant had a good case on merits and as such the order directing the applicant to deposit the fine amount imposed on the applicant, be stayed. He further on instructions of the applicant submits that the applicant has Rs. 33,07,947/- in her account with the Central bank of India, Andheri (West) Branch and that the applicant undertakes not to withdraw the said amount till the appeal is finally heard. He further submits that the applicant has already deposited Rs. 33 lakhs in the Registry of the trial Court and that the applicant also undertakes not to file any application for withdrawal of the said amount, which is lying in the Registry of the trial Court. Learned senior counsel further submits that the amount lying in the

account of accused No. 1 i.e. M/s. KMP Syntex Pvt. Ltd. in South Indian Bank, Bandra Branch can also be considered to be part of the fine amount and states that the applicant also undertakes not to file any application for withdrawal of the amount which is already made over to the Customs Department. The applicant has filed an affidavit-cum-undertaking of the applicant dated 24th June 2021. In the said affidavit-cum-undertaking, the applicant has unconditionally undertaken that neither she, nor her legal heirs/successors will withdraw the amounts stated aforesaid or ask/apply for refund of the said amounts i.e. in the bank and before any Court/Authority.

5 Having perused the papers and having regard to the affidavit-cum-undertaking of the applicant that she will not withdraw the amount lying in her account in the Central Bank i.e. Rs. 33,07,947/- or the amount deposited by her in the trial Court, nor will she claim the amount deposited with the Customs Department by the accused No.1 Company, the order directing payment of fine is suspended till the hearing and final disposal of the applicant's aforesaid appeal.

6 As far as the application for bail is concerned, the applicant was on bail pending trial and even post her conviction, her sentence was

suspended by the trial Court. The applicant has neither abused nor misused the liberty granted to her, during trial. The appeal has been admitted vide order dated 3rd May 2021. The sentence imposed is a short term sentence and the appeal is not likely to be heard in the near future.

7 Considering the aforesaid, the applications are allowed on the following terms and conditions :

<u>ORDER</u>

(i) The order directing payment of fine is suspended till the hearing and final disposal of the applicant's aforesaid appeal;

(ii) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

(iii) The applicant shall report to the trial Court, once in six months on the day/date specified by the trial Court, till her appeal is finally disposed of;

(iv) The applicant shall keep the trial Court informed of her current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

8 The applications being Interim Application Nos. 1356/2021, 1357/2021 and 1404/2021 are allowed in the aforesaid terms and are accordingly disposed of.

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

REVATI MOHITE DERE, J.