

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

**INTERIM APPLICATION NO.2282 OF 2021
WITH
INTERIM APPLICATION NO.2281 OF 2021
IN
CRIMINAL APPEAL NO.769 OF 2021**

Utsav Prasad

.. Applicant

Vs.

Central Bureau of Investigation & Anr. .. Respondents

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Mr.Ramesh N. Prabhu, Advocate for Applicant/Appellant.

Mr. Kuldeep S. Patil, Spl.P.P. for CBI.

Mr.S.R. Agarkar, A.P.P. for the State-Respondent.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 24thSEPTEMBER, 2021**

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PC.

1. The applicant is convicted for the offences punishable under Sections 120-B, 420, 468, 471 read with 120-B of the Indian Penal Code (for short "IPC") and Section 13 (1) (d) read with 13 (2) of Prevention of Corruption Act. For the offences punishable under Sections 420, 468, 471, read with 120-B of IPC, the applicant has been sentenced to suffer RI for 3 years on each count and pay fine of Rs.5 lakhs on each count. For the conviction under Section 120-B of Indian Penal Code, the applicant is directed to suffer RI for 6 months and pay fine of Rs. 4 Lakhs. For the conviction under Section 13 (1) (d) read

with 13 (2) of IPC is sentence to suffer RI for 1 year and pay fine of Rs.4 lakhs. Interim Application No.2281 of 2021 has been preferred for enlarging the applicant on bail during the pendency of the appeal preferred by the applicant challenging the judgment of conviction and Interim Application No.2282 of 2021 has been preferred for composite prayers of suspension of conviction and sentence.

2. Suspension of conviction is a different issue and the applicant is permitted to prefer separate application for seeking prayer of suspension of conviction.

3. Learned counsel for the applicant submits that applicant was not arrested during investigation. He has never misused the liberty. He is not suspended from the bank. Departmental inquiry initiated against him resulted in his exoneration. In the departmental inquiry no malafide were discernable but it was observed that no diligence was followed by him. The sentence is for short term. If he is taken in custody irreparable loss would cause to him. Hence, sentence of imprisonment may be suspended and applicant may be released on bail. After the judgment of conviction, the trial Court has suspended the sentence and released him on PR bond during the appeal period.

4. Learned Special Public Prosecutor Mr. Patil submits that the applicant has now been convicted for the aforesaid offences. There is evidence to substantiate his conviction.

5. It is apparent that applicant was never arrested during investigation. The sentence imposed by the trial Court is for a period of three years. The appeal may not come up for hearing. The applicant has challenged the judgment of conviction by preferring appeal. The prayer for suspension of sentence of imprisonment and grant of bail can be granted. Learned counsel for the applicant also submitted that the fine imposed by trial court is arbitrary. The total fine amount is Rs.23 lakhs. Warrant has been issued against him for recovery of fine amount and hence fine may be relaxed. The applicant is permitted to prefer separate application in relation to payment of fine. Considering the urgency expressed by the learned counsel for the applicant vide order dated 22.09.2021 direction to pay fine was stay till today. To enable the applicant to prefer application seeking relief in respect of payment of fine interim stay will continue for a period of one week.

ORDER

(i) The sentence of imprisonment awarded vide judgment and order dated 30.08.2021 passed by Learned Special Judge CBI, Greater Bombay in CBI Special Case No. 75 of 2011 is suspended and the applicant is directed to be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(ii) The applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/- for a period of 12 weeks in lieu

of sureties.

(iii) Interim Application Nos.2281 of 2021 and 2282 of 2021 stand disposed of.

(PRAKASH D. NAIK, J.)