

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

**INTERIM APPLICATION NO. 2874 OF 2021
IN
CRIMINAL APPEAL NO. 966 OF 2021**

Krishan Kumar Gupta
s/o. Shri. Kacharulal Gupta
v/s.
The Central Bureau of Investigation,
Mumbai and anr.
.... Applicant
.... Respondents

Mr. Ashok M. Saraogi i/b. Mr. Kunal P for the Applicant.
Mr. Kuldeep Patil for Respondent No.1/CBI.
Mr. P.H. Gaikwad, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 20th DECEMBER, 2021.

P. C. :-

1. By this Application filed under section 389 of Cr.P.C., the Applicant has sought suspension of substantive sentence as well as fine imposed by judgment dated 22/11/2021 in CBI Special Case No.28/2005.

2. By the impugned judgment, the learned Special Judge (CBI), Greater Bombay has held the Applicant (accused no.1) guilty of offences under Sections 120-B, 420, 471 r/w. 120-B of the Indian Penal Code. He has been sentenced to undergo maximum term of imprisonment of six years with total fine of Rs.10,20,00,000/-.

3. Heard Mr. Ashok Saraogi, learned counsel for the Applicant, Mr. Kuldeep Patil, learned counsel for Respondent No.1/CBI and Mr. P.H. Gaikwad, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. The charge against the Applicant (accused no.1) was that during the period between 1997 to 1998, the Applicant along with the co-accused forged and fabricated certain documents and induced the Custom Department to pay the amount of Rs.2,32,09,117/- and has thereby caused wrongful loss to the Government to the extent of Rs.2,32,09,117/-.

5. The sentence imposed is of short term imprisonment. Considering the large pendency of the cases and also the situation arising from Covid-19 pandemic, it will not be possible to take up the Appeal in immediate future. Moreover, the Applicant was on bail pending trial. He has not misused the liberty.

6. The learned Judge has imposed fine of Rs.10,20,00,000/- mainly on the ground that “value of fraud as on today is more than 18 crores”.

Mr. Saraogi, learned counsel for the Applicant states that the Applicant shall deposit 50% of the amount allegedly misappropriated out of which Rs.25,00,000/- will be deposited within a period of one week and balance amount of Rs.91,00,000/- within four months from the date of this order.

7. Having considered the reasons assigned by the learned Judge and in view of the statement made by the learned counsel for the Applicant, the Interim Application is allowed on following terms and conditions :-

(a) Substantive sentence of imprisonment as well as fine imposed against the Applicant by judgment dated 22/11/2021 in CBI Special Case No.28/2005, is suspended pending hearing of the Appeal ;

(b) The Applicant shall be released on provisional cash bail in the sum of Rs.50,000/- for a period of four weeks.

(c) The Applicant shall within the said period of four weeks, furnish P.R. Bonds in the sum of Rs.50,000/- with one or two solvent sureties in the like amount to the satisfaction of the Trial Court ;

(d) The Applicant shall deposit Rs.25,00,000/- before the Special CBI Court, Greater Bombay within a period of one week from the date of this order.

(e) The Applicant shall deposit balance amount of Rs.91,00,000/- within a period of four months from the date of this order.

(f) It is made clear that in the event, the Applicant fails to deposit the amount as undertaken, the order of suspension of fine shall stand cancelled without further reference to this Court.

(g) The Applicant shall report to the Trial Court once in two months on the day/date specified by the Trial Court, till the Appeal is finally disposed of ;

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

(i) 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 application seeking cancellation of bail.

8. Interim Application stands disposed of accordingly.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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