

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.558 OF 2022
IN
CRIMINAL APPEAL NO.712 OF 2021**

1. Balasaheb s/o. Sonerao Deshmukh
2. Laxmibai w/o. Balasaheb Deshmukh ..Applicants

Vs.

The State of Maharashtra ..Respondent

Mr.R.N.Dhorde, Senior Advocate h/f. Mr.C.P.Sengaonkar, Advocate for applicants

Mr.R.B.Bagul, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : MARCH 09, 2022**

ORDER :-

This is an application for stay to the order of confiscation of properties of the applicants, passed in Special Case No.14 of 2006.

2. Heard learned counsel for the parties.

3. Applicant no.1 is husband of applicant no.2. Applicant no.1 has been convicted for the offence punishable under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act and sentenced to suffer rigorous imprisonment for two years; while applicant no.2 has been convicted offence under Section 109 of Indian Penal Code and

sentenced to suffer rigorous imprisonment for two years. The offence was basically of amassing assets disproportionate to the known source/source of income of applicant no.1. Vide clause [4] of the impugned judgment and order, disproportionate assets, as per the list appended to the judgment separately, have been ordered to be confiscated to the Government, after appeal period is over as per the provisions of the Criminal Manual. Clause [4] reads thus:-

“[4] Disproportionate assets as per the list appended with the judgment separately shall be confiscated to the Government, after appeal period is over as per provisions of Criminal Manual.”

4. The applicants have filed an appeal against their conviction and resultant sentence. The appeal is pending. It will take time for the appeal to come up for hearing. The order of confiscation of the properties is consequent upon the judgment and order of conviction and resultant sentence. As such, unless and until the judgment of conviction passed against the applicants/appellants herein attains finality, clause [4] of the impugned judgment and order regarding confiscation of the properties to the State Government, cannot be executed.

5. In view of the above, the application is allowed. During pendency of the appeal, execution of the order of confiscation of the properties given in the list separately attached with the impugned judgment, is suspended.

[R.G. AVACHAT, J.]

KBP