

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.483 OF 2022  
IN  
CRIMINAL APPEAL NO.131 OF 2022

Mohd. Firoz Mohd. Badruddin Shaikh and anr. Applicants  
versus  
The State of Maharashtra Respondents

Ms.Anjali Patil, Advocate for applicants.  
Mr.S.H.Yadav, APP, for State.  
Mr.V.S.Sawant, PSI, Sewree Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 24<sup>th</sup> February 2022

PC :

1. The applicants are seeking suspension of sentence and grant of bail during pendency of Criminal Appeal No.131 of 2022. The applicants are convicted for offence u/s.379 r/w 120B and 34 of Indian Penal Code and sentenced to suffer imprisonment of three years. They are also convicted for offence u/s.427 r/w 120B and 34 of IPC, under Section 285 r/w 120B and 34 of IPC, under Section 461 r/w 120B and 34 of IPC, under Section 15(2) of Petroleum and Minerals Pipeline Act r/w Sections 34 and 120B of IPC, under Section 3 of Prevention of Damage to Public Property Act r/w 120B and 34 of IPC. The maximum sentence imposed is for a period of seven years. The applicants are acquitted for the offences under Sections 411, 395 of IPC and under Sections 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organized Crimes Act.

2. Learned advocate for applicants submitted that both the applicants were on bail during pendency of trial, however,

subsequently provisions of MCOC Act were invoked and hence applicants have surrendered before the Court and since then for a period of about six years they are in custody. The maximum sentence imposed by the Trial Court is of seven years.

3. Learned APP submitted that applicant no.2 was involved in 30 cases. There is sufficient evidence against applicants to prove charges against them.

4. Learned counsel for applicants submits that report submitted by police itself mentions that out of 30 cases applicant no.2 has been acquitted in 27 cases. Three other cases which were registered against him, are for the offence u/s.32 of IPC and the applicant no.2 is on bail in those cases.

5. It is pertinent to note that applicants are acquitted under the provisions of MCOC Act. The applicants were granted bail. However, on applying the provisions of MCOC Act, the applicants have surrendered and they are in custody. The maximum sentence imposed by the Trial Court is seven years and out of which the applicants have undergone six years of imprisonment. As stated above, the report submitted by police states that the applicant no.2 has been acquitted in majority of the cases. In the circumstances, case for suspension of sentence is made out. Hence, I pass following order:

#### **ORDER**

- (i) Interim Application is allowed and disposed of;
- (ii) The sentence of imprisonment imposed vide judgment and order dated 29<sup>th</sup> January 2022 by Additional Sessions Judge and

Special Judge under MCOC/NIA/POTA/Act, Greater Mumbai in MCOC Special Case No.10 of 2016 is suspended and the applicants are directed to be released on executing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;

(iii) The applicants are permitted to furnish cash bail in the sum of Rs.25,000/- for a period of ten weeks in lieu of sureties;

(iv) The applicants shall attend Trial Court once in six months on First Saturday of the month till disposal of the Criminal Appeal;

(v) In the event there are two consecutive defaults in attending the Trial Court, the Trial Court shall submit report to this Court;

(vi) In the event of default committed by the applicants in attending the Trial Court, the prosecution will be at liberty to prefer application for cancellation of bail;

(vii) The applicants shall deposit fine amount within four weeks from the date of release.

(PRAKASH D. NAIK, J.)

MST