

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

**INTERIM APPLICATION NO. 936 OF 2022
IN
CRIMINAL APPEAL NO. 282 OF 2022**

Tayyab Mansur Shaikh ..Applicant/Appellant
Versus
State of Maharashtra And Anr. ..Respondents

Ms. Anjali Patil, Advocate for the Applicant/Appellant.
Ms. S.V. Sonawane, APP for the Respondents-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd MARCH, 2022.

PC.

1. This is an application for suspension of sentence and grant of bail during pendency of Criminal Appeal No.282 of 2022.
2. The applicant is convicted by the Special Judge under Maharashtra Control of Organized Crime Act, 1999 (for short "MCOC Act") vide Judgment and order dated 29th January, 2022 for offence under Section 379 of Indian Penal Code (for short "IPC") r/w Sections 120-B and 34 IPC and sentenced to suffer imprisonment for three years and fine of Rs.20,000/-. He is also convicted for offence under Section 427 IPC r/w Sections 120-B and 34 of IPC and

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Corrected version of order dated 23.03.2022 pursuant to speaking to minutes of order dated 26.04.2022

sentenced to suffer imprisonment of two years with fine of Rs.10,000/-. For conviction under Section 285 r/w Sections 120-B and 34 IPC, the applicant has been sentenced to suffer imprisonment for three months and fine of Rs.5,000/-. For conviction under Section 461 r/w Sections 120-B and 34 of IPC, he has been sentenced to suffer imprisonment for two months with fine of Rs.5,000/-. He is also convicted for offence under Section 15(2) of Petroleum and Minerals Pipeline Act, 1962 r/w Sections 120-B and 34 IPC and sentenced to suffer imprisonment of seven years and for conviction under Section 3 of Prevention of Damage to Public Property Act, 1984 r/w Sections 120-B and 34 of IPC, the applicant has been sentenced to suffer imprisonment for three years with fine of Rs.15,000/-. The applicant was acquitted for the offences punishable under Sections 411 and 395 IPC and Sections 3(1) (ii), 3(2) and 3(4) of the MCOC Act.

3. Learned Advocate for the applicant submitted that applicant was on bail during the trial. He is in custody for a period of about two years and seven months. The applicant has not misused the facility of bail. The appeal may not reach for final hearing

immediately. There are serious infirmities in the evidence. The applicant was acquitted for the offence under the MCOC Act. The co-accused Mohd. Firoz Mohd. Badruddin Shaikh and another accused has been granted bail by suspending sentence of imprisonment by vide order dated 24th February, 2022.

4. Learned APP submitted that the offence is of serious nature. There is sufficient evidence to prove involvement of applicant in the crime. The accused were involved in committing theft of oil. There is strong evidence against the applicant.

5. During the pendency of trial the applicant was granted bail by this Court vide order dated 28th November, 2018. The application preferred by the co-accused seeking suspension of sentence and grant of bail is allowed and they are released on bail. The applicant has been acquitted for offences under Sections 395 and 411 IPC and Sections 3(1)(ii) and 3(2) for MCOC Act. Hence, this application can be allowed.

6. Hence, I pass the following order:-

ORDER

- i.** Interim Application No. 936 of 2022 is allowed;
- ii.** During the pendency of Criminal Appeal No. 282 of 2022, the sentence of imprisonment imposed vide Judgment and order dated 29th January, 2022 passed by learned Additional Sessions Judge & Special Judge under MCOC/NIA/POA Act, Greater Mumbai in MCOC Special Case No.24 of 2016 is suspended and the applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii.** The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- iv.** The applicant shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;
- v.** In the event, there are two consecutive defaults in attending the trial Court, the said fact may be brought to the notice of this Court and in such eventuality, the prosecution will be at liberty to prefer an application for cancellation of bail.
- vi.** The applicant shall not contact the victim and shall not cause any harassment to her.
- vii.** Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)