

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

**INTERIM APPLICATION NO.2162 OF 2022
IN
CRIMINAL APPEAL NO.679 OF 2022**

**.....
WITH
INTERIM APPLICATION NO.2161 OF 2022
IN
CRIMINAL APPEAL NO.679 OF 2022**

Anup Vijay Sheth Applicant
Versus
Central Bureau of Investigation
and another Respondents

Mr. A.K. Menon, Advocate i/b. S.X. Soosainavis, for the
Applicant.
Mr. Hiten Venegavkar, Advocate a/w. Bharat Mirchandani,
for the Respondent-CBI-EOB.

**CORAM : M.G. SEWLIKAR, J.
DATE : 19th JULY, 2022**

P.C. :

1. Heard learned Counsel Shri A.K. Menon for the applicant and learned Counsel Shri Hiten Venegavkar for the CBI.
2. The applicant is the original accused No.5 and

has been convicted under Sections 120-B, 419, 420, 465, 467, 468, 471 read with Section 120-B of Indian Penal Code and has been sentenced to five years' rigorous imprisonment with fine of Rs.45 Lakhs.

3. Learned counsel for the applicant submits that the applicant has been behind bars since the date of pronouncement of the judgment and pre-conviction period is close to six months. He submits that, he has thus, suffered seven months of sentence out of five years. He submits that the applicant has been held guilty only on the count that the applicant is the beneficiary of the proceeds of the crime of the accused No.1 i.e. the father of the applicant.

4. He submits that in terms of Section 389 of Cr.P.C., not only the substantive sentence can be suspended but also the sentence of fine can be suspended. For this purpose, he placed reliance on the decision of the Hon'ble Supreme Court in the case of **Satyendra Kumar Mehra Vs. The State of Jharkhand**¹.

5. As against this, learned Counsel for the CBI Shri

¹ MANU/SCOR/12269/2018

Venegavkar submits that learned trial Court has observed that the applicant had opened fake bank accounts and deposited money in those accounts. He committed misappropriation in this manner. He submits that the substantive sentence can be suspended but sentence of fine cannot be suspended.

6. In the case of **Satyendra Kumar Mehra Vs. The State of Jharkhand** (supra), it is held that not only substantive sentence under Section 389 of Cr.P.C. can be suspended but also sentence of fine can also be suspended. Appeal is not likely to come up for hearing in near future. Having regard to this and the period of sentence, I am inclined to release the applicant on bail subject to deposit of fine amount of Rs.10 Lakhs.

7. In view of this, the following order is passed :

:: O R D E R ::

- i. Substantive sentence is suspended till disposal of the appeal.
- ii. Out of the amount of fine, the applicant shall

deposit Rs.10 Lakhs in the trial Court within a period of three weeks from today.

- iii. The applicant be released on P.R. bond of Rs.2,00,000/- (Rupees Two Lakhs Only) with one solvent surety in the like amount and on condition that he shall not leave India without permission of the trial Court. He shall deposit his passport with the concerned police station.
- iv. The applicant shall not leave the jurisdiction of the concerned Court without permission of the Court.
- v. Bail in the trial Court.
- vi. Interim Applications stand disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
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(M.G. SEWLIKAR, J.)

Deshmane (PS)