

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

**INTERIM APPLICATION NO.2552 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 311 OF 2022**

Bharatkumar Kapoorchand Shah ...Applicant
Versus
Central Bureau Of Investigationa And Anr. ...Respondents

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Mr. Milan Desai a/w Ms. Dhvani Shah a/w Ms. Sayli Sawant, Advocate
for the Applicant.

Mr. H. S. Venegavkar, Special P. P. for Respondent No.1 – CBI.

Mr. Arfan Sait, APP for the Respondent – State.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 10th AUGUST, 2022.**

PER COURT:

1. The applicant has been convicted vide judgment and order dated 2nd February, 2016 passed by learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade Mumbai, passed in C.C. No.773/PW/2009 for offences punishable under Sections 120-B/ r/w Sections 420, 467, 468 & 471 of Indian Penal Code (for short “IPC”) and maximum sentence of imprisonment was awarded by three years. The judgment of the trial Court was challenged before the Sessions Court by preferring appeal which has been dismissed by judgment and order dated 4th July, 2022.

2. learned Advocate for the applicant submitted that the sentence of imprisonment is of short term. There are serious discrepancies in the evidence adduced before the trial Court. The appellate Court has mechanically confirmed the conviction. The applicant was on bail during the trial as well as during the pendency of appeal, the applicant has been taken in custody on 4th July, 2022. Fine awarded by the trial Court has been deposited before the trial Court.

3. Learned counsel for Respondent- CBI submitted that there are two concurrent findings of the trial Court and the appellate Court.

4. Considering the fact that the sentence is of short term, applicant was on bail during the trial and pendency of appeal and factual aspects of the matter, sentence of imprisonment can be suspended.

5. Hence, I pass the following order:

ORDER

- i. Interim Application No.2552 of 2022 is allowed;
- ii. The sentence of imprisonment imposed vide Judgment and order dated 2nd February, 2016 passed by learned Additional Chief Metropolitan Magistrate, 19th Court, Esplanade, Mumbai in C.C. No.773/PW/2009 and confirmed

by Sessions Court vide judgment and order dated 4th July, 2022 passed in Criminal appeal No.285 of 2016 is suspended during pendency of Criminal Revision Application No.311 of 2022 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 six 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. Interim Application stand disposed of accordingly.

(PRAKASH D. NAIK, J.)