

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

**INTERIM APPLICATION NO. 3084 OF 2022
WITH
INTERIM APPLICATION NO. 3085 OF 2022
IN
CRIMINAL APPEAL NO. 922 OF 2022**

Prafulla Kumar Mishra

..Appellant

Versus

Union of India & Anr.

..Respondents

Mr. P. K. Sanghrajka a/w. Shirish Sawant a/w. S. R. Samel i/b.
Rajeev Sawant and Associates for Appellant.

Mr. H. S. Venegaokar, Spl. P P for U.O.I./Respondent No.1.

Mr. P. H. Gaikwad, APP for State/ Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 21st SEPTEMBER 2022

PC :

1. These applications are for suspension of substantive sentence and for release of the Applicant on bail during pendency and final disposal of Criminal Appeal No.922 of 2022 which is admitted by a separate order.

2. The Applicant was original accused No.2 who was working as a Branch Manager of Dena Bank, Manisha Nagar branch, Andheri. The allegations against him are that, he

deliberately accepted the forged Kisan Vikas Patra tendered by the main accused No.1 Vijay Choudhary and disbursed a loan to the tune of Rs.50 lakhs. This act caused loss to the bank. The Applicant was convicted for commission of offence punishable U/s.409 r/w. 120B of I.P.C. and under section 13(2) r/w. 13(1)(c) and (d) of the P. C. Act. The major punishment imposed on him was for four years; besides imposition of fine.

3. Learned counsel for the applicant submitted that, he did go to the concerned post office i.e. Dunge post office, Taluka Bhiwandi, District Thane and he had seen to it that those particular Kisan Vikas Patra were marked as lien of the bank, however, this post office itself was a fake post office and the applicant was misled by the accused who was in deep conspiracy. He further submitted that, his visit report is not on record. However, PW-9 Nikita Bichu deposed in her cross-examination that it was her personal knowledge that the applicant had gone to that post office. He further submitted that the Regional manager PW-1 has explained that there is possibility that copy of such service report would be in some other file and that all the concerned files

were not searched.

4. Learned Special P. P. opposed this application. However, he could not controvert the fact that major punishment was for four years and that the Appeal is not likely to be decided during that period.

5. Considering the submissions made by learned counsel for the Applicant and also taking into account the fact that the substantive sentence is for four years and that the Appeal is not likely to be decided during that period, the Applicant can be released on bail during pendency of his Appeal.

6. During the course of argument, it was argued that the concerned post office was sham and bogus and it was not authorised. Learned Special P. P. has taken note of this submission and he submitted that the corrective steps will be taken by his department.

7. Hence, the order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.922 of 2022, the Applicant is directed to be released on bail on his executing PR. bond in the sum of Rs.25,000/- with two or more sureties in the like amount.
- ii) Both the Applications are disposed of.

(SARANG V. KOTWAL, J.)