

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

**INTERIM APPLICATION NO.4058 OF 2022
IN
CRIMINAL APPEAL NO.1172 OF 2022**

Vinay Kumar Applicant
Versus
Union of India & Anr. Respondents

Mr. Sujit B. Shelar, Advocate a/w. Ms. Anna Oommen, for the Applicant.

Mr. Shriram Shirsat, Counsel for the Respondent No.1-UIO.

Ms. M.R. Tidke, APP for the Respondent No.2-State.

**CORAM : SARANG V. KOTWAL, J.
DATE : 22nd DECEMBER, 2022**

P.C. :

1. This is an application for bail as well as for suspension of conviction. Prayer clause (b) is for suspension of conviction. Since there are different considerations for suspension of conviction in cases involving Prevention of Corruption Act, the learned counsel for the applicant does not press prayer clause (b) at this stage. Therefore, I have only considered this application for prayer clause (a) for suspension of sentence and releasing the applicant on bail

during pendency of the appeal preferred by him.

2. Heard Shri Sujit Shelar, the learned counsel for the applicant, Shri Shriram Shirsat, the learned Counsel for the respondent No.1 and Smt. M.R. Tidke, the learned APP for the respondent No.2.

3. The applicant was the original accused No.13 in CBI Special Case No.24/2005 along with CBI Special Case No.4/2006 before the Special Judge for CBI at Greater Mumbai. Vide judgment and order dated 2.11.2022, the applicant was convicted for commission of offence punishable under Section 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988. He was sentenced to suffer RI for one year and to pay fine of Rs.5 Lakhs and in default of payment of fine to suffer RI for three months.

4. The learned counsel for the applicant submitted that the prosecution case is that the applicant was posted as an Assessor with Export Oriented Unit Department, EOU, Customs, Mumbai and his job was only to verify whether the valuations mentioned in the documents were proper or not.

He was not supposed to go to the actual spot i.e. Mumbai Port and verify the goods physically. He submitted that the applicant's duties did not include this particular aspect. He submitted that PW-58 the Deputy Commissioner of Customs has even described the duties of the applicant. This deposition helps the applicant.

5. He further submitted that the sentence imposed on the applicant is only for one year and the appeal is not likely to be decided within that period. The applicant was on bail during trial and he has not misused that liberty. Even after his conviction, he was granted bail under Section 389 of Cr.P.C. for a limited period.

6. The learned Special Counsel for the respondent No.1 – CBI opposed this application on merits, but, he conceded that the sentence is short.

7. Considering these submissions, the applicant can be released on bail particularly when the appeal is not likely to be decided within a period of one year. Hence the following order :

:: O R D E R ::

- i. During pendency and final disposal of Criminal Appeal No.1172/2022, the applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii. It is made clear that the payment of fine is not stayed.
- iii. Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2022.12.23
10:39:06 +0530

Deshmane (PS)