

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.785 OF 2019
AND
INTERIM APPLICATION NO.1245 OF 2022
IN
INTERIM APPLICATION NO.785 OF 2019
AND
INTERIM APPLICATION NO.786 OF 2019
IN
CRIMINAL APPEAL NO.1407 OF 2019

Bankesh Bhavsar s/o Baldev Bhavsar

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.Manish Bohra i/by M/s.A.S.Khan & Associates for applicant.

Ms.Anubha Rastogi with Mr.Siddharth Kamar (SEBI Officer) for
respondent no.2 SEBI

Mr.Arfan Sait, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th April 2022

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1. The applicant-applicant is convicted vide judgment and order dated 23rd September 2019 passed by learned SEBI Special Judge, City Civil & Sessions Court, Greater Bombay in SEBI Special Case No.287 of 2014 convicting applicant for the offence u/s.24(2) of SEBI Act, 1992 and sentenced to suffer imprisonment of one month and pay fine of Rs.5,00,000/- and in default of payment of fine to undergo simple imprisonment for six months. It was further directed that out of fine amount of Rs.5,00,000/-, the accused shall pay Rs.4,50,000/- to SEBI as compensation by demand drat or pay order and Rs.50,000/- was directed to be deposited in Court towards fine.

2. Interim Application Nos.785 of 2019 and 786 of 2019 are preferred for suspension of sentence and grant of bail; whereas Interim Application No.1245 of 2022 is preferred for relaxation of deposit of fine amount imposed by Trial Court while convicting applicant.

3. The appeal preferred by the applicant challenging impugned judgment of conviction is admitted by this Court on 14th January 2022.

4. Learned advocate for applicant submitted that judgment of Special Court suffers from serious infirmity. The judgment has been challenged by preferring appeal which has been admitted by this Court. The applicant has deposited Rs.50,000/- before Trial Court in accordance with impugned order dated 23rd September 2019. It is further submitted that sentence of imprisonment was suspended by Trial Court on the date of conviction. The applicant is in financial constraints. He is without employment. He is earning meager sum of Rs.8,000/- p.m on account of Covid-19 and various other circumstances. The applicant is not in a position to deposit fine amount. The applicant, however, would make arrangement to deposit the amount of Rs.50,000/- towards fine amount. It is submitted that in similar case this Court had relaxed the condition of depositing fine.

5. Learned advocate for respondent no.2 opposed the relief sought in these applications. It is submitted that the applicant was punished for the offence u/s.24(2) of SEBI Act vide judgment and

order dated 23rd September 2019. Except the amount of Rs.50,000/- which has been deposited in the Trial Court, the applicant has not paid any amount to SEBI in accordance with judgment and order dated 23rd September 2019. The sentence was suspended by Trial Court for the stipulated period on the date of conviction and although the applicant had sufficient time since last two years, the applicant has not complied the directions of Trial Court nor sought suspension of sentence from this Court immediately after the impugned judgment passed by the Trial Court. Respondent no.2 has filed reply opposing prayers made in these applications.

6. The appeal preferred by the applicant challenging judgment of conviction has been admitted by this Court. The amount of fine of Rs.50,000/- has been deposited before Trial Court immediately after conviction, however, further amount of Rs.4,50,000/- which was directed to be paid to respondent no.2 by way of demand draft/pay order, has not been paid by applicant. Considering the submissions of both sides, I pass following order :

ORDER

- (i) Interim Application Nos.785 of 2019, 786 of 2019 and 1245 of 2022 are allowed and disposed of;
- (ii) The sentence of imprisonment imposed vide judgment and order dated 23rd September 2019 passed by learned SEBI Special Judge, City Civil & Sessions Court, Greater Bombay in SEBI Special Case No.287 of 2014 is suspended and applicant is directed to be released on bail on executing PR 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 twelve weeks;

- (iv) The applicant shall deposit Rs.2,00,000/- before Trial Court towards fine amount within twelve weeks from today;
- (v) The applicant shall attend Trial Court once in six months on First Saturday of the month till disposal of the Criminal Appeal;
- (vi) In the event there are two consecutive defaults in attending the Trial Court, the Trial Court shall submit report to this Court;
- (vii) In the event of default committed by the applicant in attending the Trial Court, the prosecution will be at liberty to prefer application for cancellation of bail.

(PRAKASH D. NAIK, J.)

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