

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 3392 OF 2023 IN
CRIMINAL APPEAL NO. 825 OF 2023**

Sanjay s/o Umakant Rujure

Applicant

Versus

The State of Maharashtra

Respondent

Mr. B. N. Magar, advocate for the Applicant
Mr. R. D. Sanap, APP for the Respondent.

CORAM : SANDIPKUMAR C. MORE, J.

DATE : 08th September, 2023.

PC :

Heard.

Issue notice to the respondent

Learned A. P. P. waives service for Respondent-
State.

Heard rival submissions.

The applicant, who is original accused no.2 in
Special ACB Case of 06 of 2016, is seeking stay to the order of
conviction passed by the learned Assistant Sessions Judge,
Bhokar dated 11.08.2023, along with suspension of his

substantial sentence of imprisonment during the pendency of this appeal. Under the impugned judgment, the learned trial Court has sentenced the present applicant to suffer imprisonment for one year and to pay fine of Rs.2000/-, in default, simple imprisonment for two months. The applicant has deposited the fine amount and the learned trial Court has released him on bail till 11.09.2023 under order dated 11.08.2023.

The learned Counsel for the applicant submits that this Court has already stayed the conviction of main accused i.e. accused no.1 Shivraj Vishwambhar Tarke and also released him on bail during the pendency of this appeal vide order dated 25.08.2023 in Criminal Application No.3093 of 2023. As such, he prayed for similar order for this applicant whose role in the offence is not that much grave as that of accused no.1.

On the contrary, learned A. P. P. strongly opposed the application on the ground that the learned trial Court, after considering the evidence of the prosecution, has convicted the applicant and, therefore, prayed for rejection of

the appeal. The learned A. P. P. also placed reliance on the judgment of Hon'ble Apex Court in the case of **K. C. Sareen Vs. C. B. I. Chandigarh**, 2001 (6) SCC 584, wherein it is observed that the stay to the conviction is to be granted in rarest of rare case and this is not the case, which falls under the said category.

However, by relying upon the observation of Hon'ble Apex Court in the case of **State of Maharashtra, through CBI Anti Corruption Branch Mumbai Vs. Balkrishna Dattatrya Kumbhar**, (2012) 12 SCC 384, this Court has already stayed the conviction of another accused i.e. accused no.1 in this case against whom more serious allegations were there. Further, the present applicant is not Police Patil at present and according to the learned Counsel for the applicant, sanction was also not accorded to prosecute this applicant. Therefore, considering the earlier order dated 25.08.2023 in respect of accused no.1, in this case, following order is passed:

- (i) Criminal Application is hereby allowed.

(ii) The impugned judgment and order of conviction dated 11.08.2023, passed by the Assistant Sessions Judge, Bhokar, District Nanded in Special ACB Case No. 06 of 2016, is stayed to the extent of present applicant, during the pendency of this appeal and till then, his substantive sentence of imprisonment of one year shall stand suspended on the conditions as imposed by the learned trial Court while releasing him on bail under order dated 11.08.2023. However, the applicant shall execute fresh bonds before the learned trial Court.

(SANDIPKUMAR C. MORE)
JUDGE

adb

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Appellant

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CORAM : SANDIPKUMAR C. MORE, J.

DATE : 08th September, 2023.

PC :

Heard.

Admit.

Learned A. P. P. waives service of notice.

Call R. & P. with paper book.

**(SANDIPKUMAR C. MORE)
JUDGE**

adb