

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4234 OF 2022
IN APEAL/651/2022 WITH APEAL/651/2022

RAMAKANT SIDRAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Salunke Sudarshan J
APP for Respondent/State : Mr. P. M. Kulkarni

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CORAM : KISHORE C. SANT, J.

DATE : 9th FEBRUARY 2023.

Per Court :

1. This is an application seeking stay to the conviction against the applicant vide judgment passed by the learned Special Judge, Latur in Special Case (ACB) No.03/2017 dated 18.08.2022. The applicant is convicted for the offences punishable under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 (P.C. Act for short). The sentence is already suspended while admitting the appeal.

2. The submission of the applicant is that in view of the conviction, he is not getting service benefits as well as retiral benefit, as he is dismissed from the service in view of this conviction and therefore he seeks stay to the conviction.

3. The learned APP opposes the application saying that this is an offence involving moral turpitude and the Court should be very slow in staying the conviction as no special circumstances are pointed out to stay the conviction.

4. It needs to be kept in mind that the applicant is convicted for the offence under the P.C. Act. The Hon'ble Apex Court in the case of **K.C. Sareen Vs. C.B.I. Chandigarh** reported in 2001 Cri. L.J. 4234, has held that the public servant who is convicted for corruption, is not entitled to hold public office and therefore suspension of order of conviction during pendency is not permissible. The Court has discussed in paragraph no.10 of the said judgment, which is reproduced as below:

"10. The legal position, therefore, is this: Though the power to suspend an order of conviction, apart from the order of sentence, is not alien to Section 389(1) of the Code, its exercise should be limited to

very exceptional cases. Merely because the convicted person files an appeal in challenge of the conviction the court should not suspend the operation of the order of conviction. The court has a duty to look at all aspects including the ramifications of keeping such conviction in abeyance. It is in the light of the above legal position that we have to examine the question as to what should be the position when a public servant is convicted of an offence under the PC Act. No doubt when the appellate court admits the appeal filed in challenge of the conviction and sentence for the offence under the PC Act, the superior court should normally suspend the sentence of imprisonment until disposal of the appeal, because refusal thereof would render the very appeal otiose unless such appeal could be heard soon after the filing of the appeal. But suspension of conviction of the offence under the PC Act, dehors the sentence of imprisonment as a sequel thereto, is a different matter."

. In view of the same, this Court finds that there is no merit in the application and the same is dismissed.

5. Considering the prayer that can be allowed to expedite the appeal. Appeal is therefore expedited.

6. With this, the Criminal Application is disposed off.

[KISHORE C. SANT, J.]

Najeeb.