

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

**INTERIM APPLICATION NO. 361 OF 2023
IN
CRIMINAL APPEAL NO. 76 OF 2023**

Mr. J. J. Gowda	..Appellant.
Versus	
Central Bureau of Investigation & Anr.	..Respondents

Mr. Murtaza M. Khokhawala a/w. Megha Puralkar for Appellant.

Mr. Kuldeep S. Patil a/w. Nikhil Hire a/w. Sushmita Sarkar for CBI/
Respondent No.1.

Mr. S. R. Agarkar, APP for State/Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 9 FEBRUARY 2023**

PC :

1. This is an application for bail pending final disposal of Criminal Appeal No.76 of 2023. The Applicant has challenged the Judgment and order dated 20/12/2022 passed by learned Special Judge (CBI), Greater Bombay, in CBI Special Case No.76 of 2000. There were two more accused besides the present applicant in that case. At the conclusion of the trial, the Applicant was convicted for commission of offence punishable under sections 120B r/w. 420,

467, 468 and 471 of the I.P.C. and was sentenced to suffer R.I. for three months and to pay a fine of Rs.5000/- and in default of payment of fine to suffer R.I. for one month. He was also convicted for commission of offence punishable U/s.409 of the I.P.C. and was sentenced to suffer R.I. for three months and to pay a fine of Rs.5000/- and in default of payment of fine to suffer S.I. for one month. The Applicant was also convicted for commission of offence punishable U/s.13(1)(d) r/w. 13(2) of the Prevention of Corruption Act, 1988 and was sentenced to suffer R.I. for one year and to pay a fine of Rs.5000/- and in default of payment of fine to suffer R.I. for one month. The major sentence imposed on him was for one year, besides imposition of fine.

2. The prosecution case is that the accused Nos.2 and 3 were having their firms' accounts in Dahisar branch of Canara Bank. The applicant was a Branch Manager there. Both the co-accused used bill discounting facility. The allegations against the applicant are that, he allowed the misuse of the bill discounting facility and discounted the cheques issued by the parties. The money received by co-accused were transferred in each other's account and thereafter it was

misappropriated. On these allegations the prosecution was launched.

3. Learned counsel for the applicant submitted that, once the cheques were discounted, the bank did not have control over the amount of those cheques as to how it was utilized by the parties. He submitted that the prosecution witnesses have given admissions in favour of the applicant which are reflected in paragraph 82 of the impugned Judgment. The prosecution witness No.18 has admitted that the bank Manager could discount the cheques beyond his delegated power and report the same to the controlling office in form NF637. Learned counsel, therefore, submitted that the applicant has not acted beyond his power and he has not committed any offence. There is nothing to show that there was any conspiracy between the applicant and other accused. There is no recovery at his instance. There is nothing to show that the applicant was beneficiary of the offence. He further submitted that the applicant is 75 years of age. He was on bail during trial and even after his conviction he was granted bail U/s.389 of the Cr.p.c. He has not misused the liberty.

4. Learned counsel for the C.B.I. opposed these submissions on merits. But he conceded that the sentence is short.

5. I have considered these submissions. The issues raised by learned counsel for the applicant will have to be considered at the final hearing stage. The applicant has an arguable case. The applicant is 75 years of age. The sentence imposed is short and the Appeal is not likely to be decided within that period. The Applicant was on bail during trial and even after his conviction he was granted bail U/s.389 of the Cr.p.c. The applicant deserves to be released on bail during pendency of his Appeal.

6. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.76 of 2023, the Applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.

ii) The Application is disposed of.

(SARANG V. KOTWAL, J.)