

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

**INTERIM APPLICATION NO.362 OF 2023
IN
CRIMINAL APPEAL NO.78 OF 2023**

J.J. Gowda Applicant
Versus
Central Bureau of Investigation & Anr. Respondents

Mr. Murtaza M. Khokhawala, Advocate a/w. Megha Puralkar,
for the Applicant.

Mr. Kuldeep S. Patil, Counsel a/w. Nikhil G. Hire, for
Respondent No.1-CBI.

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

**CORAM : SARANG V. KOTWAL, J.
DATE : 3rd FEBRUARY, 2023**

P.C. :

1. This is an application for bail pending final disposal of the applicant's Criminal Appeal No.78/2023.

2. The applicant was convicted and sentenced by the Special Judge (CBI) for Greater Bombay vide his judgment and order dated 20.12.2022 passed in CBI Special Case No.9/2001. The applicant was the original accused No.1. He was convicted for commission of offences

punishable under Section 120B read with 420 & Section 409 of IPC and under Section 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988. The major sentence imposed on him was RI for one year besides imposition of fine. There was another accused i.e. accused No.2 Ashok Solanki. He was convicted and sentenced under different counts.

3. Heard Mr. Murtaza Khokhawala, learned counsel for the applicant, Shri Kuldeep Patil, learned counsel for the respondent No.1-CBI and Smt.M.R. Tidke, learned APP for the respondent No.2-State.

4. Learned counsel for the applicant submitted that at the relevant time, he was a Branch Manager of Canara Bank, Dahisar (E) Branch. Some credit facilities were extended to the accused No.2 and he misused those credit facilities in transferring the funds from M/s. Jewellers Kapoorchand Pvt. Ltd. to M/s. Shah Kapoorchand & Sons and from that account the money was siphoned off.

5. Learned counsel for the applicant submitted that the applicant was not the authorized person to sanction the Credit Facility. The Credit Facility was sanctioned by the Circle Office. Once the Credit Facility was sanctioned, the applicant had no knowledge as to how the funds were transferred from one account to the other. Therefore, it cannot be said that he was in collusion or in conspiracy with the other accused. He submitted that 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. The applicant is 75 year old. The appeal is not likely to be decided in the near future.

6. Learned Special P.P. for the respondent No.1-CBI opposed these submissions. But, he conceded that the sentence imposed on the applicant is short and the appeal is not likely to be decided within that period.

7. I have considered these submissions. The issues raised by the learned counsel for the applicant will have to be decided at the final hearing stage. The sentence imposed

is short and the appeal is not likely to be decided within that period. The applicant is 75 years old person.

8. Considering all these aspects, the applicant can be granted bail pending final disposal of the appeal. Hence, the following order :

:: O R D E R ::

- i. During pendency and final disposal of Criminal Appeal No.78/2023, 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. Interim Application is disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2023.02.07
10:23:58 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)