

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

**INTERIM APPLICATION NO. 568 OF 2023
IN
CRIMINAL APPEAL NO. 157 OF 2023**

Mehboob Jaffer Ali Shaikh ..Applicant
Versus
Central Bureau of Investigation & Anr. ..Respondents

Mr. Girish Kulkarni i/b. Omkar Ghag for Applicant.
Mr. Kuldeep S. Patil for CBI/Respondent No.1.
Mr. S. R. Agarkar, APP for State/Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 14 FEBRUARY 2023**

PC :

1. This is an application for bail pending final disposal of Criminal Appeal No.157 of 2023 preferred by the Applicant against the Judgment and order dated 12/01/2023 passed by learned Special Judge, CBI, Greater Bombay in Special Case No.116 of 2013. The applicant was the original accused No.2. He was convicted for commission of offence punishable U/s.12 of the Prevention of Corruption Act, 1988 and was sentenced to suffer R.I. for three years and to pay a fine of Rs.10000/- and in default of payment of fine to suffer S.I. for six months. The co-accused

Satyanarayana Vanam was convicted for commission of offences punishable Under sections 7, 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988.

2. Heard Shri. Girish Kulkarni, learned counsel for the Applicant, Shri. Kuldeep Patil, learned counsel for the CBI/Respondent No.1 and Shri. Agarkar, learned APP for the State/Respondent No.2.

3. The prosecution case is that the applicant was entrusted with the work of filing income tax return by the complainant i.e. PW-2 Abdul Mansuri. The co-accused i.e. accused No.1 was the Office Superintendent working with the Income Tax Department in Mumbai. The complainant i.e. PW-2 had sold his house in Kharghar. It is the prosecution case that the applicant told PW-2 that he was required to pay Rs.1,70,000/- by way of tax in that transaction. He further told PW-2 that he will have to pay Rs.40000/- to the accused No.1. The complainant-PW-2 did not want to pay the bribe amount and, therefore, he lodged his complaint with the CBI. A trap was laid on 13/11/2013. The

prosecution case is that the applicant was found having accepted the amount of Rs.20000/-.

4. Learned counsel for the applicant submitted that, admittedly, the applicant was a Tax Consultant working for PW-2 and there is a strong possibility that the amount was received as professional fees and not as bribe. He further submitted that the complainant had placed that amount in the drawer of the applicant without his knowledge and thereafter had handshake with the applicant thereby transferring the anthracene powder on the hand of the applicant. He submitted that, in any case, the prosecution case is that the amount was accepted on behalf of the accused No.1 whose appeal is separately admitted and he is already granted bail in connection with his appeal. Learned counsel further submitted that the sentence imposed on the applicant is short and the Appeal is not likely to be decided within that period. The applicant was on bail during trial and he has not misused that liberty. Even after conviction the applicant was granted bail U/s.389 of the Cr.p.c.

5. Learned counsel for the CBI opposed these submissions on merits. He submitted that, the telephonic conversation is recorded through which the demand made by the applicant is proved by the prosecution. He further submitted that, presence of anthracene powder on the hands of the applicant shows that he had accepted that amount. However, he conceded that the sentence imposed is short.

6. All the points raised by both learned counsel 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 co-accused, who according to the prosecution case is the person for whom the bribe amount was demanded and accepted; is already granted bail pending his appeal. The applicant was on bail during trial and there are no allegations of misusing that liberty. Even after conviction the applicant was granted bail U/s.389 of the Cr.p.c. Considering all these aspects, the applicant can be granted bail pending final disposal of his appeal.

7. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.157 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.)