IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO. 665 OF 2023

IN

CRIMINAL APPEAL NO. 776 OF 2019

Mahesh Lalchand Bohra ...Applicant
Versus
The Central Bureau of Investigation & Anr. ...Respondents

Mr. Shirish Gupte, Senior Advocate a/w Mr. Manas Gawankar & Mr. Parth Sanghrajka i/b Rajeev Sawant & Associates, for the Applicant.

Mr. Amit Munde, Spl.P.P for the CBI.

Ms. S.S.Kaushik, A.P.P. for the Respondent-State.

CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
DATE : 27th MARCH, 2023

P.C. :

1. Heard learned Counsel for the parties.

2. By the aforesaid application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final

disposal of his aforesaid appeal.

3. The applicant is original accused No.3. The applicant alongwith other co-accused, vide Judgment and Order dated 26th April, 2019, passed by the learned Special Judge (CBI), Greater Bombay, in Special Case No. 69 of 2005, has been convicted and sentenced as under:-

" - for the offence punishable under Section 420 r/w 120B of the Indian Penal Code, to suffer rigorous imprisonment for 7 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 2 years;

- for the offence punishable under Section 466 of the Indian Penal code, to suffer rigorous imprisonment for 7 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 2 years;

- for the offence punishable under Section 467 of the Indian Penal Code, to suffer imprisonment for life and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for two years;

- for the offence punishable under Section 468 of the Indian Penal Code, to suffer rigorous imprisonment for 7 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 1 years;

- for the offence punishable under Section 471 of the Indian Penal Code, to suffer rigorous imprisonment for 2 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for six months;

- for the offence punishable under Section 419 of the Indian Penal Code, to suffer rigorous imprisonment for 2 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 6 months;

- for the offence punishable under Section 120B of the Indian Penal Code, to suffer rigorous imprisonment for 7 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 2 years.

All the aforesaid sentences were directed to run concurrently.

4. According to the prosecution, the applicant introduced original accused Nos.1 and 2 to the Bank, who in turn, granted credit facility of Rs.2.50 lakhs to the accused Nos.1 and 2. Mr. Gupte, learned Senior Counsel for the applicant submits that the applicant was working as a Chartered Accountant with the said firm and that there are no allegations that he submitted any forged documents to the Bank. He submits that the only allegation as against the applicant is that he introduced the original accused Nos.1 and 2 to the Assistant General Manager, Bank of India, who in turn, granted credit facility to the accused Nos.1 and 2. He submits that there are no allegations that the applicant committed forgery of any documents. Learned Senior Counsel for the applicant further submits that the applicant, admittedly, was not a beneficiary of the said credit facility granted by the Bank to the original accused Nos.1 and 2 nor is it the prosecution case that the applicant derived any benefit from the said credit facility granted by the Bank.

5. Mr. Munde, learned Spl.P.P appearing for the respondent No.1-CBI opposes the application. He submits that there is no parity with the other co-accused who have been enlarged on bail and whose sentences have been suspended. He submits that the evidence on record shows that it was the applicant who had submitted notarized copies of documents to the Bank, and based on the said documents, Mr. Bhagwanji Joshi, Assistant General Manager, Bank of India, sanctioned credit facility of Rs.2.50 lakhs to the accused Nos.1 and 2.

6. Perused the papers including the orders dated 21st March, 2022 enlarging co-accused - Bhagwanji Dayaram Joshi on bail and the order dated 27th June, 2022 enlarging co-accused - Shantilal Tarachand Chouhan on bail. It appears that apart from the said co-accused, one lawyer (Original Accused No.8), his sentence has also been suspended and he is enlarged on bail. No doubt, the role of each of the accused is different, however, the fact remains that the applicant was on bail, pending trial and had not misused or abused his liberty

whilst on bail. It also appears that the credit facility given in favour of the accused Nos.1 and 2 was subsequently repaid by them. It is not clear as to what forgery has been committed by the applicant, a Chartered Accountant working with the said firm. Be that as it may, the appeal of the applicant is admitted by this Court vide order dated 12th June, 2019 and the said appeal is not likely to be heard in the immediate near future.

7. Considering the role of the applicant and also having perused the orders passed by this Court enlarging some of the co-accused on bail, the application deserves to be allowed. Accordingly, the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions;

ORDER

(i) The applicant be released on bail on furnishing P.R. Bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount;

(ii) The applicant shall deposit his passport, if any, with the Investigating Officer before his release on bail;

(iii) The applicant shall furnish his residential address and contact number to the Investigating Officer, before his release on bail;

(iv) The applicant shall report to the Investigating Agency's Office at Mumbai, once in two months, till the disposal of his appeal.

8. The application is accordingly disposed of on the aforesaid terms.

9. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J. **REVATI MOHITE DERE, J.**