

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

**INTERIM APPLICATION NO.1038 OF 2023
IN
CRIMINAL APPEAL NO. 739 OF 2023**

Narhari Narayan Satam @ Pankaj ...Applicant
Versus
The State Of Maharashtra ...Respondent

Mr. Jagdish G. Shetty, Advocate for the Applicant.

Mrs. M. H. Mhatre, APP for the Respondent-State.

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**CORAM : NITIN B. SURYAWANSHI, J.
DATE : 23rd OCTOBER 2023**

PC.:

1. The applicant is convicted by learned Additional Sessions Judge & Special Judge under MCOC/NIA/POTA, Greater Mumbai in MCOC Special Case No.07 of 2015, under Sections 120-B, 387 read with 34 of the Indian Penal Code, 1860 and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 and sentenced to suffer 10 years rigorous imprisonment and to pay total fine of Rs.15,05,000/- is imposed on the applicant.

2. Learned Advocate for the applicant submits that sentence imposed on the applicant is short term. He further submits that exorbitant fine amount is imposed on the applicant and applicant is not in a position to deposit the fine

amount. He relies on the decision of this Court (Coram : Prakash D. Naik, J.) in Criminal Application No.1602 of 2018 and connected matters in Criminal Appeal No. 161 of 2018 wherein the sentence of payment of fine of Rs.5,00,000/- was relaxed. He further submits that, there is non-compliance of Rule 15(3)(b), which is held to be mandatory by Apex Court in the case of Bharatbhai @ Jimi Premchandbhai Vs. State of Gujarat (2003) ALL MR (Cri) 164 (S.C.). He also relied on the decision of Supreme Court in Special Leave to Appeal (Crl) No. 4633 of 2021 wherein considering the fact that convicts has undergone 8 years of actual sentence and it was held that bail would be the rule. Reliance is also placed on the decision of Supreme Court in Criminal Appeal No. 1562 of 2021 (arising out of SLP (Cri.) No. 8647 of 2021) wherein out of ten years sentence, convicts has undergone eight years and five days of imprisonment and therefore, bail was granted. His suspension of sentence was suspended.

3. Learned APP on the other hand strenuously opposed prayer stating that applicant is convicted under MCOC Act and therefore, is not entitled for bail. He stated that, bail may be heard finally.

4. Since the applicant has undergone substantive sentence

of eight years and eight months, appeal of applicant is already admitted but the same is not likely to be heard in near future, applicant has made out a case for suspension of sentence. In Criminal Application No.1602 of 2018 and connected matters in Criminal Appeal No. 161 of 2018 in similar facts, this Court relaxed the sentence of payment of fine amount of Rs. 5,00,000/- by directing him to pay 50,000/- on each count. In this view of the matter, applicant is entitled for the same relief. Hence, the following order:-

- (i) Interim Application No.1038 of 2023 is allowed;
- (ii) Substantive sentence of imprisonment imposed on the applicant vide judgment and order dated 31st May 2022 passed by learned Additional Sessions Judge & Special Judge under MCOC/NIA/POTA, Greater Mumbai in MCOC Special Case No.07 of 2015 is suspended during the pendency of Appeal.
- (iii) Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs. 15,000/- with one solvent surety in the like amount.
- (iv) Sentence of payment of fine of Rs. 5 lakhs on each conviction under Section 3(1)(ii), 3(2) and 3(4) of MCOC Act

is relaxed and the applicant is directed to deposit fine of Rs.50,000/- on each count within a period of eight weeks from the date of his release.

(v) It is clarified that the relaxation for payment of fine is granted pending appeal and it is subject to the decision in the appeal challenging order of conviction.

(vi) Applicant shall pay fine of Rs. 5,000/- for conviction under Sections 120-B, 387 of the IPC immediately before his release on bail.

(vii) Applicant shall attend concerned Police Station once in a month on first Sunday until further orders.

(viii) Applicant shall furnish his present address and cellphone number with the Investigating Officer.

(NITIN B. SURYAWANSHI, J.)