

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

**INTERIM APPLICATION NO. 1417 OF 2023
WITH
INTERIM APPLICATION NO. 2990 OF 2023
IN
CRIMINAL APPEAL NO. 449 OF 2023**

S. S. Mahalingam ...Applicant
Versus
Central Bureau Of Investigation And Anr. ...Respondents

Mr. Milind D. Dhande a/w Ms. Divya R. Tiwari, Advocates for the Applicant.

Mr. Amit Munde, Special P. P. APP for the Respondent-State.

Mrs. P. P. Shinde, APP for Respondent-State.

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**CORAM : NITIN B. SURYAWANSHI, J.
DATE : 17th OCTOBER 2023**

PC.:

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal preferred by applicant challenging the judgment of conviction.

2. Applicant has been convicted vide judgment and order dated 9th March 2023 passed by learned Special Judge (CBI), Greater Bombay in (CBI) Special Case No.60 of 2004, under Sections 471, 420, 468 read with 120-B of the Indian Penal Code, 1860. Applicant has been sentenced to suffer rigorous

imprisonment for two years and to pay total fine amount of Rs.15 lakhs.

3. Learned Advocate for Applicant submits that applicant is original accused No.3. There are serious lacunas in the prosecution case. Applicant is 73 years old and is retired from service of bank and settled at Bengaluru. Applicant has deposited fine amount of Rs.5,00,000/- in Canara Bank. His sentence is suspended by the trial Court on the date of conviction. Applicant is on bail. There are no criminal antecedents against the applicant. Hence, he submits that the application may be allowed.

4. Learned Advocate for CBI strenuously opposed the application. He submitted that applicant is involved in commission of economic offence and the conspiracy of all the accused persons is proved by the prosecution case in the trial Court, he does not deserve to be released on bail.

5. Appeal is already admitted. Sentence imposed by the trial Court is of short term. Applicant was on bail during the trial. The sentence of imprisonment was suspended on the date of conviction by the trial Court in accordance with Section 389 of Cr.P.C. and the said order is continued by this Court. Appeal would not be taken up for hearing in near

future, application therefore deserves to be allowed.

6. Hence, the following order:-

(i) Interim Applications are allowed.

(ii) Substantive sentence of imprisonment imposed vide judgment and order dated 9th March 2023 passed by Special Judge (CBI) in Special Case No.60 of 2004 is suspended and applicant is directed to be released on same bail granted by the trial Court with fresh bond.

(iii) Applicant shall furnish security for remaining fine amount to the satisfaction of the trial Court.

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

(NITIN B. SURYAWANSHI, J.)