

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1265 OF 2023
IN
CRIMINAL APPEAL NO.394 OF 2023

Nitin Trimbak Nikam	Applicant
versus	
The CBI and another	Respondents

AND
INTERIM APPLICATION NO.1586 OF 2023
IN
CRIMINAL APPEAL NO.481 OF 2023

Ganesh Sadashiv Dhayagude	Applicant
versus	
The CBI and another	Respondents

Mr.Nagesh Khedkar, Mr.Shrikant Panhale i/by Mr.Shailesh Chavan,
Advocate for Applicant in IA No.1265/2023.
Mr.Satyavrat Joshi, Advocate for Applicant in IA No.1586/2023.
Mr.Aayush Kedia h/for Mr.H.S.Venegavkar, Special PP for Respondent
no.1.
Mr.Y.M.Nakhwa, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th June 2023

PC :

1. The Applicant Nitin Nikam is convicted for the offence u/s.7 of Prevention of Corruption Act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.50,000/-. He is also convicted for the offence u/s.120B of IPC and sentenced to suffer rigorous imprisonment for three years and fine of Rs.10,000/-; whereas Applicant Ganesh Dhayagude is convicted for offence u/s.120B of IPC and sentenced to suffer imprisonment for three years.

2. Both the applicants have preferred the appeals challenging the judgment of conviction and applications for suspension of sentence of judgment. The appeals are admitted and pending for final disposal.

3. The applicants were on bail during trial. The sentence of imprisonment was suspended by the Trial Court for a temporary period to enable the appellants/applicants to prefer appeal. The order suspending sentence of imprisonment awarded against Nitin Nikam has been extended by this Court vide Order dated 6th April 2023.

4. Learned advocate for Applicants submitted that sentence is of short term. Applicants were on bail during trial. The evidence adduced by prosecution suffers from serious discrepancies. The appeal may not come up for hearing immediately.

5. Advocate for Respondent submitted that although the sentence is of short term, the offence is of serious nature. There is sufficient evidence against applicants.

6. Considering the fact that Applicants were on bail during trial and on the date of conviction, conviction was suspended by the Trial Court, the submissions of advocate for applicants and factual aspects of the matter, conviction can be suspended.

ORDER

(i) Interim Application No.1265 of 2023 and Interim Application No.1586 of 2023 is allowed and disposed off;

(ii) The sentence of imprisonment imposed vide Judgment and Order dated 9th February 2023 in Special (ACB) No.758 of 2020 by Special Judge (CBI-ACB), Pune, against applicants is suspended till final disposal of respective Criminal Appeals, and applicants herein

are directed to be released on bail on their executing PR bond in the sum of Rs.20,000/- each with one or two sureties in the like amount;

(iii) The applicants shall report CBI-ACB, Pune once in six months on first Saturday of the month between 11 am and 1 pm till final disposal of respective Appeal.

(PRAKASH D. NAIK, J.)

MST