

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

***CRIMINAL INTERIM APPLICATION NO.2104 OF 2022
IN
CRIMINAL APPEAL NO.791 OF 2019***

Amit Manojarlal Ahuja

..... Applicant-Appellant-
Original accused No.2

Vs.

State of Maharashtra and Ors.

..... Respondents

Mr. Ashok P. Mundargi, Senior Advocate i/b Mr. Amit Ghag for
the Applicant in IA No.2104/2022.

Mr. Amit Munde, Special P. P. for Respondent-CBI.

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.***

DATE : 18 APRIL 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 the aforesaid appeal.

3. The applicant is original accused No.2. 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:

“i) 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.50 Lakhs, in default of payment of fine, to undergo simple imprisonment for 2 years;

-ii) 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.50 lakhs, in default of payment of fine, to undergo simple imprisonment for 2 years;

-iii) for the offence punishable under Section 467 of the Indian Penal Code, to suffer imprisonment for life and to pay fine of Rs.50 Lakhs, in default of payment of fine, to undergo simple imprisonment for two years;

-iv) 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.1 lakh, in default of payment of fine, to undergo

simple imprisonment for 1 years;

- v) 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.1 lakh, in default of payment of fine, to undergo simple imprisonment for six months;

-vi) 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.1 Lakh, in default of payment of fine, to undergo simple imprisonment for 2 years.

Sentence of imprisonment of the accused No.2 mentioned in clause No.(i), (ii) and (iii) is directed to run consecutively and rest of the sentence of imprisonment imposed on him to run concurrently alongwith the sentence mentioned in clause (iii)

4. At the outset, we make it clear that this is the second bail application preferred by the applicant. The first bail application of the Applicant was rejected by this Court (Coram: B. P. Dharmadhikari & Mrs. Swapna Joshi, JJ.) vide order dated 9/8/2019 on merits. Since both the Judges have retired, we have

taken up the application for hearing.

5. Learned Senior Advocate for the applicant submits that the applicant's first bail application was rejected vide order dated 9/8/2019. He submits that passage of time is also a change of circumstance warranting entertaining of the second bail application. He submits that the applicant was 18 years of age and was a student studying in a college, at the time of the alleged offences. He submits that the applicant had not signed the loan application form seeking credit facility from the bank. He further submits that the allegation essentially as against the applicant is, that he had signed the guarantee papers for the said loan facility extended to his father. He further submits that the applicant was made a partner by his father Manohar Ahuja (original accused No.1) on the applicant completing 18 years of age. He further submits the applicant was never arrested during trial that he was on bail throughout, and, that presently he has undergone 3 years in custody. He further submits that the record of the case is voluminous running into 10 volumes and as such the Appeal is not likely to be heard in the immediate near future.

6. Learned Special P.P. opposed the application. He submits that no fresh grounds are made out to entertain this second application seeking bail. He further submits that the Trial Court has recorded that the applicant, although a student has signed several documents pursuant to which credit facility was given by the bank.

7. Perused the papers including the order dated 9/8/2023 by which the Applicant's first bail application was rejected by this Court.

8. The first bail application was rejected vide order dated 9/8/2019. Although the said order was challenged before the Apex Court by way of Special Leave Petition (Cri) No.16-17/2020, it appears that the same was withdrawn. Passage of time is certainly a ground for entertaining the second bail application. As noted above we have heard the aforesaid application as both the judges, who rejected the first bail application, have since retired. It appears that the credit facility was availed of by Manohar Ahuja, father of the Applicant in the year 2000. It appears that certain documents were

submitted by the accused No.1-Manohar for seeking credit facility and in the papers that were submitted the applicant has signed as a guarantor. Admittedly, the applicant was aged 20 years at the relevant time and was studying in college. As the documents were found to be fabricated and false, FIR was registered by CBI as against the applicant and others on 24/6/2004. After investigation charge-sheet was filed on 30/11/2005. Admittedly, the applicant was not arrested in the said CBI case and as such was on bail throughout the trial. In the said case about 37 witnesses were examined and several documents were filed by the prosecution. Learned Special Court vide order dated 26/4/2019 convicted and sentenced the applicant alongwith other accused as stated aforesaid.

9. It is not in dispute that during pendency of trial, Bank of India had settled the dispute with the Applicant and other co-accused under the OTS scheme. The applicant is in custody since April 2019. Appeal has been admitted by this Court vide order dated 10/6/2019. Office noting does not show that the paper book is ready. Considering the pendency of cases, the said appeal is not likely to be heard in the immediate near future.

10. Considering the aforesaid, 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:

(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 not leave the country without the permission of this Court;

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

(iv) The applicant shall report to the concerned CBI Office , once in three months on the first Saturday of the month, till the disposal of his appeal.

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

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

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