

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.830 OF 2023

IN

CRIMINAL APPEAL NO.517 OF 2023

(Sanjay Kumar s/o Mrugendranath Sahu Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Dr. C.C. Anthony, Advocate for the appellant.
Shri P. Sathianathan, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 10, 2023.

Heard.

2. Present application is filed for suspension of sentence and releasing the appellant on bail.

3. The appellant was prosecuted for the offence punishable under Sections 409, 471 read with 465, 477-A of the Indian Penal Code and Sections 13(1)(c)(d) read with 13(2) of the Prevention of Corruption Act, 1988.

4. Learned trial Court after appreciating the evidence held the appellant guilty for the offence punishable under Section 409 of the IPC and sentenced to suffer rigorous imprisonment for four years and to pay fine of Rs.20,000/- in default further rigorous imprisonment of eight months. The appellant has further convicted of the offence punishable under Sections 471 read with Section 465 of the IPC and sentenced to suffer rigorous imprisonment for two years and to pay fine of

Rs.10,000/- in default further four months rigorous imprisonment. The appellant is also convicted under Section 477-A of the IPC and sentenced to suffer rigorous imprisonment for four years and to pay fine of Rs.20,000/- in default eight months rigorous imprisonment and for the offence punishable under Section 13(1)(c)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 and sentenced to suffer rigorous imprisonment for four years and to pay fine of Rs.20,000/- in default further eight months rigorous imprisonment.

5. The appellant has challenged the said judgment and order of sentence on various grounds including the ground that there was no proper sanction. It is further contended that the learned trial Court has not appreciated the evidence properly and by relying upon the evidence of the witnesses by not considering the omissions and contradictions convicted the present appellant. The appellant has fair chance of acquittal in the present appeal however, the appeal will take its own time for its final decision. In the meantime, if the sentence is executed the purpose of preferring the appeal would frustrate. Hence, prays for suspension of the sentence.

6. Said application is strongly opposed by the learned Counsel for the respondent-C.B.I. on the ground that the appellant has not made out any grounds to suspend the sentence. Learned trial Court has rightly considered the evidence. The sanction accorded was as

per the law. There are no grounds to suspend the sentence and hence, application deserves to be rejected.

7. Having heard learned Counsel for the appellant and the learned Counsel for the respondent.

8. Perused he impugned judgment.

9. Learned Counsel for the appellant has made out the ground that the sanction accorded was not proper and on that count the entire prosecution vitiates. He further raised the ground that considering the evidence of witnesses especially PW-10, the duty allotted to the present appellant was receiving and releasing of payment pertaining to MOIL. The Special Judge failed to consider the admission of the witness and erroneously convicted the present appellant. Thus, the appellant has made out the arguable points which shows that he has every chance of success in the present appeal. In view of that the application for suspension of sentence deserves to be allowed. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The execution of the sentence is hereby suspended till disposal of the appeal.

(iii) The appellant be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) with one surety in the like amount.

(iv) The appellant shall deposit the fine amount within one month. On failure to deposit the amount, the bail granted to the appellant deserves to be cancelled.

(v) The appellant shall furnish his Cell-phone number and address along with address proof before the Investigating Officer.

10. The application is disposed of.

11. Hamdast is granted.

CRIMINAL APPEAL NO.517 OF 2023

Heard.

2. R. and P. is already received.

3. Place the matter before the Court after preparation of the paper book for final disposal.

(URMILA JOSHI-PHALKE, J.)

**Divya*