



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1515 OF 2024
IN
CRIMINAL APPEAL NO. 343 OF 2024

Sakharam Raoji Vasave
Age : 83 years, Occupation : Nil,
Resident of Dhule,
District Dhule.
Presently in jail.

... Applicant
[Accused no.8]

Versus

The State of Maharashtra
Through P.S.O., Dhule City Police Station,
District Dhule.

....
Advocate for Applicant : Mr. Mukul S. Kulkarni
APP for Respondent-State : Mr. D. J. Patil

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 29.04.2024
Pronounced on : 02.05.2024

ORDER :

1. Here is an application for suspension of sentence and grant of bail as a result of conviction dated 30.03.2024 recorded by Additional Sessions Judge, Dhule (Special Judge) in Special Case No. 8 of 1991 (arising out of Crime No. 11/1991), holding applicant-appellant (accused no.8) guilty for offence punishable under Sections 120-B,

409 r/w 120-B, 467 r/w 120-B of the Indian Penal Code [IPC] and Section 13(1)(c)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 [PC Act].

2. Learned counsel for the applicant pointed out that pertaining to present Crime No. 11/1991, in all 26 accused were chargesheeted for commission of offence under Sections 120-B, 409, 467, 471 r/w 34, 411, 109, 414 and 75 of IPC as well as Section 13(1)(c)(d) r/w 13(2) of PC Act. However, according to him, present applicant is held guilty only for offence under Section 120-B, 409, 467 of IPC and provisions under PC Act. He pointed out that applicant was working as a Divisional Accountant. He happened to be mere controlling and supervising authority of main accused no.1.

3. It is his submission that, in another crime of similar nature, after conviction for similar charges, appeal was preferred before this Court bearing Criminal Appeal No. 10 of 2002 and this appellate court, on complete re-appreciation, merely held applicant to be negligent in duty and failing to supervise subordinate staff.

4. He further pointed out that recently, on conclusion of trial in March 2024, appellant is held guilty by Special Judge. In view of

above submissions, mere role of failure in controlling subordinates and negligence in duty, of which there is not concrete evidence, appeal has been preferred very recently, however, according to him much more time would be required to hear and decide the same. That, applicant is almost 83 years of age and is suffering from various serious ailments. That, he was on bail for a considerable time i.e. from September 1991 to March 2024. There is no adverse remark while on bail. He has strong hopes of succeeding in appeal and so learned counsel prays for suspension of substantive sentence as well as grant of bail.

5. Above application is strongly opposed by learned APP. He pointed out that there is misappropriation of Rs.47,00,000/-. There was huge scam of Rupees sixteen crore. That, role of applicant is crystallized during trial. There is huge fraud played on Government and huge amounts are siphoned. On full-fledge trial, he has been held guilty and in the light of such economic offence, learned APP submits that, applicant does not deserves relief as prayed, as according to him, it would frustrate the very conviction brought upon lengthy trial.

6. Perused the papers. Dhule City Police Station entertained complaint filed by one V. N. Wagh, the then Deputy Engineer, M.I.D.

in Dhule Zilla Parishad, alleging commission of above offences. Trial was conducted by learned Additional Sessions Judge, Dhule vide Special Case No. 8 of 1991, wherein, in all 26 accused were arraigned and tried. Finally, by judgment and order dated 30.03.2024, present applicant came to be convicted along with another accused and that too, for charges under Sections 120-B, 409 r/w 120-B, 467 r/w 120-B of IPC and 13(1)(c)(d) r/w 13(2) of PC Act and he stood acquitted from charges under Sections 471, 411, 414, 109 and 75 of IPC.

7. Two grounds are pressed into service. Firstly, maximum sentence awarded is only seven years; whereas, secondly, applicant is almost 83 years of age as on today. Further, an attempt is also tried to be made to seek reliance on the observations and decision of this Court in another matter arising out of similar crime, wherein present applicant was also an appellant, i.e. in Criminal Appeal No. 10 of 2002 (along with other connected appeals) decided on 06.05.2011, wherein, it was held that charge of criminal conspiracy has failed against the accused no.9 (present applicant).

8. Thus, it is emerging that crime is of 1991. On chargesheeting 26 accused including present applicant, trial seems to have commenced in 2014-2015, and finally verdict is pronounced in March

2024 i.e. one month back. Applicant was said to be working as Divisional Accountant. Main accused no.1 was said to be Junior Assistant-cum-cashier and he was said to be subordinate of present applicant. As regards to present applicant is concerned, he is held guilty for misappropriation during the period from 30.12.1988 to 25.09.1989.

9. As on today, applicant is said to be over 83 years of age. At the time of hearing on sentence in trial court, arguments seem to be advanced that he is hypertensive, a diabetic and has also undergone angioplasty. Apparently, he has suffered trial for almost 30 years. Consequently, taking his age into consideration, nature of accusations, trial getting concluded after 30 years against which appeal is filed now, definitely much more time would be required to hear and decide the same. Record shows that he was on bail from September 1991 till March 2024.

Resultantly, taking into consideration the above aspects, the quantum of sentence, nature of accusations and age of applicant, relief as prayed deserves to be granted. Hence, following order is passed:

ORDER

- I. Criminal Application stands allowed.
- II. The substantive sentence imposed on the applicant Sakharam Raoji Vasave in Special Case No. 8 of 1991 by the Additional Sessions Judge, Dhule (Special Judge) on 30.03.2024 stands suspended till final hearing and disposal of Criminal Appeal No. 343 of 2024.
- III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with two solvent sureties in the like amount.
- IV. The applicant shall not commit any criminal activity.
- V. The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.
- VI. In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]