

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 635 OF 2024**

IN

CRIMINAL APPEAL NO. 145 OF 2024

Basappa Gurusiddhappa Mang

... Applicant (Org. Accused No. 4)

Vs.

The State of Maharashtra & Anr.

... Respondents

Adv. Satyavrat Joshi, for the Appellant/Applicant.

Mr. A. R. Metkari, APP for State.

Mr. Anand Patil, for the Respondent No. 2.

CORAM : KISHORE C. SANT, J.

DATE : 17th APRIL, 2024

P.C.:-

1. None for Respondent No. 3 inspite of service.
2. Heard. This Application is filed by Original Accused No. 4, he is convicted by the Special Judge, Gadhinglaj in Special (MCOCA) Case No. 16/2020 dated 29.12.2023, for offences punishable under section as under:-

Sr. No.	Sections	Punishment	Fine Amount
1.	120-B r/w 34 of IPC	7 Years, R. I.	Rs. 5,000/-, in default, to undergo R.I. for One months.
2.	3(1) (ii) of M.C.O.C. Act,1999	7 Years, R. I.	Rs.5,00,000/-, in default, to undergo R.I. for 2 Years.
3.	3 (4) of M.C.O.C. Act,1999	7 Years, R. I.	Rs.5,00,000/-, in default, to undergo R.I. for 2 Years.

3. It is mainly argued by the learned Advocate for the Applicant, that the maximum sentence awarded is 7 years though for Section 120-B the maximum sentence provided is 2 years the Court has awarded 7 years punishment. He further submits that he is in jail from 16.03.2018, as recorded in clause-13 of the operative Order. He has also made specific statement in his Application to that effect at page no 6. The main thrust of the argument is that the Applicant has completed more than 6 years of sentence out of total sentence of 7 years. The Applicant is however not in a position to pay the fine amount. He is agriculturist by profession he thus submits that though the fine amount is not paid considering that he has suffered almost entire sentence and if remission is counted he has completed almost entire sentence. The Applicant be released on bail.

4. The learned Advocate for the Respondent No. 2 and the learned APP, opposes the Application submitting that the total fine amount is Rs. 15,05,000/- so even after completing substantive sentence the Applicant has to suffer default sentence as the Applicant has not deposited the fine amount.

5. This Court is not considering the Application on merits today. The main consideration as on today is that the Applicant has suffered almost entire sentence. The Applicant however has not deposited the fine amount the condition can be imposed in case bail is to be granted. As stated this Court is inclined to allow the Application only on consideration stated

above. However it is necessary to impose certain condition in respect of the fine amount. Hence the following Order.

ORDER

- a) The Application stands allowed.
- b) The substantive sentence awarded by the Special Judge, Gadhinglaj in Special (MCOCA) Case No. 16/2020 dated 29.12.2023, stands suspended.
- c) The Applicant shall be released on bail on furnishing P. R. bond and solvent surety in the sum of Rs. 15,000/-.
- d) The above clauses b and c are subject to condition that the Applicant deposits 50% of the total fine amount.
- e) The Applicant shall report the police station once in a every month i.e. on first sunday between 11 a.m. to 1 p.m.
- f) The Applicant shall furnish residential address and contact details including his mobile number etc., to the concerned Police Station.
- g) Applicant shall keep informed about any change in above mentioned contact details immediately to the concerned Police Station.

6. Interim Application stands disposed of.

(KISHORE C. SANT, J.)