

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

**INTERIM APPLICATION NO.3072 OF 2024
IN
INTERIM APPLICATION NO.635 OF 2024
IN
CRIMINAL APPEAL NO.145 OF 2024**

Bassapa Gurusiddhapa Mang Applicant

versus

The State of Maharashtra Respondent

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- Mr. Samay Pawar i/b. Satyavrat Joshi, Advocate for Applicant.
- Mr. Prashant P. Jadhav, APP for the State/Respondent.
- Mr. Anand S. Patil, Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 13th AUGUST, 2024**

P.C. :

1. The Applicant was the original accused in Special (MCOCA) Case No.16 of 2020 before the Special Judge, Gadhinglaj. He was the accused No.4. The learned Judge vide his Judgment and Order dated 29/12/2023 convicted the Applicant and others. The Applicant was convicted and sentenced as follows:

- (i) The Applicant was convicted for commission of offence punishable u/s 120-B r/w 34 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.5,000/- and in default of payment of fine to suffer rigorous imprisonment for one month.
- (ii) He was convicted for commission of offence punishable u/s 3(1)(ii) of MCOC Act and was sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.5,00,000/- and in default of payment of fine to suffer rigorous imprisonment for 2 years.
- (iii) He was convicted for commission of offence punishable u/s 3(2) of MCOC Act and was sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.5,00,000/- and in default of payment of fine to suffer rigorous imprisonment for 2 years.
- (iv) He was convicted for commission of offence punishable u/s 3(4) of MCOC Act and was sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.5,00,000/- and in default of payment of fine to suffer rigorous imprisonment for 2 years.

- (v) All the substantive sentences were directed to run concurrently.

2. Heard Mr. Samay Pawar, learned counsel for the Applicant,- Mr. Anand S. Patil, learned counsel for the Respondent No.2 and Mr. Prashant P. Jadhav, learned APP for the State.

3. The Applicant preferred Criminal Appeal No.145 of 2024 challenging the said Judgment and Order of conviction and sentence. The Appeal was admitted. He preferred Interim Application No.635 of 2024 in that Appeal. At that time nobody had appeared for Respondent No.3 inspite of service. Learned counsel Mr. Anand Patil appeared for Respondent No.2. Today I have heard learned counsel for the Applicant, for Respondent No.2 and learned APP. The present application is for modification of one of the conditions mentioned in the order dated 17/04/2024 passed by a coordinate bench (Coram : Kishore C. Sant, J.) in Interim Application No.635 of 2024 in the said Appeal. The Applicant was granted bail. It was observed that the main consideration was that the Applicant had served

almost the entire sentence and therefore the Court was inclined to allow the application only on that consideration. However, one of the conditions imposed was that the Applicant had to deposit 50% of the total fine amount. On that condition he was granted bail. The said order was passed on 17/04/2024. Even after about four months, the Applicant could not avail of the said bail order because it was beyond his capacity to deposit 50% of the fine amount which was to the tune of Rs.15,05,000/-. Therefore, the present application is filed for relaxation of that particular condition.

4. Learned counsel for the Applicant submitted that inspite of his best efforts, he could not raise that amount. He is in custody for about 7 years and therefore though he is granted bail; that order could not be implemented because of the lack of funds. He submitted that the Applicant is in a position to deposit Rs.50,000/- only.

5. The learned APP and the learned counsel for the Respondent No.2 opposed these submissions. According to them,

since that particular condition was imposed while granting bail, it should be complied with. Learned counsel for the Respondent No.2 added that it was public money that was lost and therefore no leniency should be shown to him.

6. I have considered these submissions. The previous order shows that the Applicant has almost completed the substantive sentence and it is only the 'in default' sentence which he has to undergo. He was already granted bail. In this situation, the bail order had to be effective. Though it was held that the Applicant was entitled for bail, he could not be released on bail because he could not pay half the fine amount. In this situation, since the Applicant has already completed the substantive sentence, I am inclined to modify and relax that particular condition.

7. Hence, the following order :

ORDER

- (i) The condition (d) in the order dated 17/04/2024 in Interim Application No.635 of

2024 in Criminal Appeal No.145 of 2024 is modified and the Applicant is permitted to deposit Rs.50,000/- by way of part of his fine amount, instead of 50% of the fine amount.

- (ii) The rest of the conditions mentioned in the said order shall remain as they are.
- (iii) With these observations, the application is disposed of.

(SARANG V. KOTWAL, J.)