



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

**INTERIM APPLICATION NO. 2052 OF 2023
IN
CRIMINAL APPEAL NO. 289 OF 2023**

RAMKISHAN PANDITRAO

KINHALKAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Ritesh Thobde a/w Adv. Changdev Shingade a/w Adv.
Ankita Pramod Rai for the Applicant.

Mr. S.H. Yadav, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 13, 2024

P.C. :

1. Heard learned counsel for the applicant and learned APP
for the State.

2. This is an application for suspension/stay of the
conviction. The applicant is convicted for the offence under
Sections 7, 13(1)(d) read with 13(2) of the Prevention of
Corruption Act, 1988. The applicant has been sentenced to
suffer 5 years of rigorous imprisonment and to pay a fine.
The appeal is admitted and the sentence is suspended.

3. Learned counsel for the applicant submitted that the alleged bribe amount was thrust into the applicant's pocket. It is further submitted that the evidence does not disclose that there was any demand by the applicant and on this ground itself the appeal must succeed.

4. Reliance is placed on the decision of the Supreme Court in **Lok Prahari through its General Secretary, S.N. Shukla Vs. Election Commission of India and Others**¹ to contend that the authority vested in the appellate Court to stay the conviction ensures that a conviction on untenable or frivolous grounds does not operate to cause serious prejudice. It is, therefore, urged that the conviction is on untenable and frivolous grounds and may be suspended. I am afraid that the decision rendered in Lok Prahari (supra) was in different facts altogether and therefore, is distinguishable.

5. So far as the present application is concerned, placing reliance on the **State of Maharashtra through CBI, Anti Corruption Branch, Mumbai Vs. Balakrishna Dattatrya Kumbhar**², it can be seen that the power to suspend the

¹(2018) 18 Supreme Court Cases 114

²(2012) 12 Supreme Court Cases 384

conviction must be exercised with great circumspection and caution. The applicant has been convicted on the charges of corruption. In light of the decision in the State of Maharashtra through CBI, Anti Corruption Branch, Mumbai Vs. Balakrishna Dattatrya Kumbhar (supra), suspension of conviction and then permitting the applicant to perform his duties would have a tremendous adverse impact on the public interest. The applicant was convicted by the trial Court which found him guilty of corruption. The arguments advanced by learned counsel for the applicant would fall in the realm of merits of the appeal.

6. I am, therefore, not inclined to suspend the conviction. The applicant is at liberty to apply for expediting the final hearing of the appeal.

7. The application stands disposed of with liberty.

(M. S. KARNIK, J.)