IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3254 OF 2024
IN
CRIMINAL APPEAL NO.872 OF 2024

WITH

INTERIM APPLICATION NO.3252 OF 2024
IN
CRIMINAL APPEAL NO.872 OF 2024

Dhirajlal Bharatlal Damania .... Applicant
versus
The State of Maharashtra .... Respondent

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- Mr. Ashok M. Saraogi, Advocate for Appellant.
- Mr. Shrikant H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st AUGUST, 2024

P.C. :

1. The Interim Application No.3252 of 2024 is filed with the prayer for accepting the same bail bonds pursuant to the order passed by the Trial Court after convicting the Appellant and the second Interim Application i.e. Interim Application No.3254 of 2024 is filed with a prayer that the impugned

MANUSHREE NESARIKAR
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Judgment and Order be stayed to the extent of sentence awarded to the Applicant.

2. The Applicant was one of the three accused before the designated Judge under the Maharashtra Protection of Interest of Depositors (MPID) Act , 1999, for Greater Bombay. The learned Judge vide the Judgment and Order dated 16/07/2024 convicted the Appellant for commission of offence punishable u/s 406 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for one year and to pay a fine of Rs.10,000/- and in default of payment of fine to suffer simple imprisonment for two months. The Applicant was also convicted for commission of offence punishable u/s 3 of MPID Act and was sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.50,000/- and in default of payment of fine to suffer simple imprisonment for six months. All the sentences were directed to run concurrently. Besides this operative part, there are other clauses in the operative part regarding attachment and distribution of property.

3. The prosecution case in short is that the Applicant was having a business of sale and purchase of automobiles. He obtained different amounts from various depositors on the promise of giving handsome returns. He failed to return their money and therefore he faced the prosecution.

4. Learned counsel for the Applicant submitted that the fraud amount involved in this case was Rs.1.39 Crores. As against this, the Applicant's property worth Rs.4 Crores is already attached by the authorities. He submitted that the major sentence imposed is only for three years. The Appeal is not likely to be decided during that period. He further submitted that even after his conviction, the Applicant was granted bail for a temporary period u/s 389 of Cr.P.C. The Applicant is a 71 year old man and he has no other antecedents against him. He was on bail during trial and has not misused that liberty.

5. Learned APP opposed these submissions. He submitted that the offence is serious.

6. I have considered these submissions. The Applicant is 71 years old. The major sentence imposed is of 3 years. The Appeal is not likely to be decided during that period. The other two accused are already acquitted. The properties of the Applicant are attached. As submitted by the learned counsel for the Applicant, he has deposited the fine amount.

7. Considering these submissions, the Applicant can be granted bail pending his Appeal. However, I am not inclined to continue the same bail as granted by the Trial court.

8. Hence, the following order :

ORDER

(i) During the pendency and final disposal of the Criminal Appeal No.872 of 2024, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only), with one or two sureties in the like amount.

(ii) The substantive imprisonment imposed on the Applicant is therefore stayed till the final disposal of the Appeal.

(iii) It is made clear that all the other clauses in the operative part of the impugned Judgment and Order, shall remain as they are and there is no stay of these clauses.

(iv) The applications are disposed of.

(SARANG V. KOTWAL, J.)