IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3669 OF 2024
IN
CRIMINAL APPEAL NO.994 OF 2024

WITH

INTERIM APPLICATION NO.3671 OF 2024
IN
CRIMINAL APPEAL NO.994 OF 2024

Prem Mohanlal Parikh .... Applicant

versus

State of Maharashtra & Anr. .... Respondents

…....

- Mr. Manish M. Bohra, Advocate for Applicant.
- Ms. Ranjana D. Humane, APP for the State/Respondent.
- Mr. Sudeep Pasbola, Senior Advocate a/w Rajan Gurnani i/b. Chetan Mali, Advocate for Respondent No.2 (SEBI).

CORAM : SARANG V. KOTWAL, J.
DATE : 10th SEPTEMBER, 2024

P.C. :

1. The Applicant was the accused in SEBI Special Case No.1566 of 2021 before SEBI Special Judge, Greater Mumbai. The learned Judge vide his Judment and Order dated 17/08/2024 convicted the Applicant u/s 24(2) of Securities

Exchange Board of India Act, 1992 (for short 'SEBI Act'). The Applicant was sentenced to suffer simple imprisonment for one month and to pay a fine of Rs.10 lakhs and in default of payment of fine to undergo simple imprisonment for six months. Upon realisation of the fine amount, an amount of Rs.5 lakhs was directed to be paid to SEBI as compensation.

2. Heard Mr. Manish M. Bohra, learned counsel for the Applicant, Mr. Sudeep Pasbola, learned Senior counsel for the Respondent No.2 and Ms. Ranjana D. Humane, learned APP for the State.

3. The prosecution case was that the SEBI detected a huge rise in the trade volume and price of shares of M/s. Spectacle Infotech Limited (SIL). It was listed at Bombay Stock Exchange and National Stock Exchange. Therefore, the SEBI conducted investigation into the alleged irregularities. It was observed that there was an unusual spike in the prices from 21.75 to 162.80 and the volume from 31 shares to more than 79,68,043 shares. Pursuant to the investigation, the SEBI

initiated adjudication proceeding against several entities including the Applicant for the alleged violation of the provision of Regulation 3(a),(b),(c),(d),4(1) and 4(2)(a),(b),(e) & (g) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations 2003. The Adjudication Officer after conducting the proceedings imposed a penalty of Rs.5 lakhs on the Applicant vide the order dated 22/12/2014. It was communicated to the Applicant vide the letter dated 23/12/2014. The Applicant preferred the Appeal No.308 of 2015 before the Securities Appellate Tribunal (SAT). The Appeal was withdrawn by the Applicant. The penalty was not deposited and hence offence u/s 24(2) of SEBI Act was committed by the Applicant. The SEBI filed complaint before the Special Court. During the trial, two witnesses were examined on behalf of the complainant and ultimately, the Applicant was convicted.

4. The only defence which appears to have been raised by the Applicant was regarding the authority of C.W.1 to file

complaint. The other contention was that the SEBI itself had approached Hon'ble Supreme Court against the withdrawal of the Appeal by the Applicant before SAT and therefore, the matter was subjudice before the Hon'ble Supreme Court.

5. Learned Senior counsel appearing for SEBI resisted these submissions and further submitted that the SEBI had approached the Hon'ble Supreme Court only in respect of the interest component. The basic penalty of Rs.5 lakhs was never an issue before the Hon'ble Supreme Court.

6. I have considered these submissions. All these issues will have to be considered at the final hearing stage of the Appeal. Today, the Applicant is seeking suspension of sentence and grant of bail, during pendency of his Appeal.

7. Learned counsel for the Applicant submitted that the Applicant was on bail during the trial. Even after his conviction, he was granted bail u/s 389 of Cr.P.C. The Appeal is not likely to

be decided within a reasonable period. He submitted that in this situation, the Applicant's sentence be suspended. He further prayed that the payment of fine, in entirety, be stayed or atleast some concession be given in payment of fine. For that purpose, he relied on the order passed by a co-ordinate bench in Interim Application No.744 of 2019 in Criminal Appeal No.1392 of 2019 decided on 08/06/2023, in which it was observed that the Appellate Court has power to suspend the sentence and fine both, or has power to direct depositing the entire fine or part payment of fine.

8. Learned Senior counsel for SEBI submitted that instead of staying the payment of entire fine amount, he be directed to pay at least half of the fine amount i.e. Rs.5 lakhs before the Trial Court.

9. I have considered these submissions. The Appeal is not likely to be decided within a reasonable time. The substantive sentence is only of one month. Therefore, the sentence will have

to be suspended. As far as the prayer for staying the payment of fine is concerned, the adjudication proceeding was from the year 2014. More than 10 years have passed and the Applicant has not deposited any amount in respect of penalty and has not deposited the fine amount except Rs.25,000/-. In this view of the matter, it will be just and proper if only payment of part of fine is suspended. In the background of this fact, I am inclined to permit the Applicant to make payment of Rs.5 lakhs as fine amount instead of Rs.10 lakhs, during the pendency of Appeal only.

10. Hence, the following order :

O R D E R

(i) During the pendency and final disposal of the Criminal Appeal No.994 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) Before executing the bond, the Applicant shall deposit the fine amount of Rs.5 lakhs within a period of two months before the Trial Court.

(iii) On this condition, the sentence imposed by the Applicant is suspended.

(iv) The interim bail granted by the Trial Court is extended for two months to enable the Applicant to comply with clauses (ii) and (i).

(v) Interim Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)