IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3736 OF 2024
IN
CRIMINAL APPEAL NO.1011 OF 2024

Kanaiyalal Baldev Patel …..Applicant
Versus
Securities and Exchange Board
of India and another .... Respondents

Mr. Yashpal Thakur, Advocate a/w. Rajesh Khandelwal, Deepak Dhone & Viraaj Bhate i/b. Juris Link for the Applicant.

Ms. Anubha Rastogi, Special Public Prosecutor a/w. Vivekananda Swaroop for the Respondent No.1-SEBI.

Mr. S.H. Yadav, APP for the Respondent No.2-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 30th SEPTEMBER, 2024

P.C. :

1. The Applicant was the accused in SEBI Special Case No.1592/2021 before the SEBI Special Judge, Greater Mumbai. The learned Judge, vide his judgment and order dated 23.4.2024, convicted the Applicant for commission of the offence punishable under Section 24(2) of Securities And Exchange Board of India Act, 1992 (for short, 'SEBI Act').

The Applicant was sentenced to suffer SI for three years and to pay a fine of Rs.10 Lakhs and in default of payment of fine to suffer SI for six months.

2. Heard Mr. Yashpal Thakur, learned counsel for the Applicant, Ms. Anubha Rastogi, learned Special Public Prosecutor for the Respondent No.1-SEBI and Mr. S.H. Yadav, learned APP for the Respondent No.2-State.

3. The prosecution case is that the Applicant had faced adjudication proceedings in connection with the alleged violations of provisions of Regulations 3(a)(b)(c) & (d) of PFUTP Regulations. The Adjudicating Officer imposed penalty of Rs.5 Crores as per Section 15HA of the SEBI Act vide order dated 30.9.2011. At the first instance, the Securities Appellate Tribunal [SAT] had set aside that order. That appellate order was challenged by the SEBI before the Hon'ble Supreme Court. The Hon'ble Supreme Court restored the order of the Adjudicating Officer and set aside the order of the SAT. After that, the SEBI issued notice to the Appellant to pay a sum of Rs.9,03,40,726.03 with further

interest. Since the Applicant did not pay that penalty, this prosecution was launched and ultimately the Applicant was convicted.

4. Learned counsel for the Applicant submitted that he has arguable points on merits. He specifically referred to his Application under Section 311 of Cr.P.C., which was rejected wherein the Applicant wanted to bring on record the developments regarding attachment of his property etc.. He submitted that on merits, the Applicant will argue his case, however, the Appeal is not likely to be decided within a short period of three years for which he is convicted. He further submitted that the Applicant has already deposited the fine of Rs.10 Lakhs before the trial Court. He submitted that the Applicant was on bail during trial and even after his conviction he was granted bail under Section 389 of Cr.P.C.

5. The learned Special Prosecutor for the SEBI submitted that the Applicant does not have any defence. He was directed to pay the penalty as per the adjudication order which he has failed to comply with and, therefore, the

offence is made out. However, she could not counter the submission that the sentence imposed is short. She accepted that the Applicant has deposited Rs.10 Lakhs before the trial Court and that he was on bail during the trial.

6. Considering these submissions, the issues raised by both the sides can be decided at the final hearing stage. However, since the sentence imposed is short and since the Appeal is not likely to be decided within that period, the Applicant deserves to be released on bail during pendency of his Appeal.

7. Learned Special PP submitted that there is apprehension that the Applicant may abscond and may not be available at the final conclusion of the Appeal or even for attachment of his properties and, therefore, suitable conditions may be imposed so that this apprehension can be taken care of. In view of this apprehension, I am inclined to impose necessary conditions.

8. Hence, the following order:

O R D E R

(i) During pendency and final disposal of the Criminal Appeal No.1011/2024, the Applicant is directed to be released on bail on his executing a P.R. bond in the sum of Rs.1,00,000/- (Rupees One Lakh Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the the Respondent No.1-SEBI Office at SEBI Bhavan, ‘G’ Block, BKC, Bandra (East), Mumbai, once in four months.

(iii) The Applicant shall deposit his passport, if any, with the SEBI office within a period of fifteen days from today. He shall seek permission of this Court in case he wants to go abroad.

(iv) Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

PRADIPKUMAR PRAKASHRAO DESHMANE Digitally signed by PRADIPKUMAR PRAKASHRAO DESHMANE Date: 2024.10.01 14:39:57 +0530