

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

**INTERIM APPLICATION NO. 4740 OF 2024
IN
CRIMINAL APPEAL NO.1215 OF 2024**

Dr. Anand Prakash Mittal ...Applicant
Versus
The Central Bureau Of Investigation And Anr ...Respondents

Mr. Aabad Ponda, Senior Advocate a/w Mr. P. B. Pawar for the Applicant.
Mr. Shreeram Shirsat a/w Mr. Shekhar Mane for Respondent No.1-CBI.
Mr. V. A. Kulkarni, APP for Respondent No.2-State

CORAM : M. M. SATHAYE, J.

DATED : 05th DECEMBER, 2024

P.C.:

1. This is an Application for suspension of sentence and interim bail. Under the impugned order dated 04/11/2024 passed in CBI Special Case No. 112 of 2017, the Applicant/Sole Accused has been convicted for offences punishable u/s. 13(1)(c) and 13(1)(d) r/w. 13(2) of the Prevention of Corruption Act, 1988 and u/s. 409 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment of 4 year with imposition of fine.
2. The Appeal is already admitted and is pending for final hearing.
3. Learned Senior Counsel for the Applicant submitted that the Applicant is 69 years old person, suffering from ischemic heart disease, diabetic retinopathy with glaucoma, who has already undergone angioplasty in the past. He submitted that this is a case of short fixed period sentence of 4

years.

4. He submitted that the Applicant was working as Dy. General Manager with New India Assurance Company (NIA), who on sent deputation as Managing Director of M/s. Prestige Assurance, Lagos, Nigeria since November 2009 and was there till November 2014. He submitted that alleged offence is concerning accepting an amount of 2,63,462.82 US\$ from M/s Prestige Assurance, as 'a parting gift and pension' from the M/s Prestige Assurance. He submitted that M/s. Prestige Assurance company is not registered in India and it is a company incorporated as per Nigerian Company Act and as such a separate legal entity, which is not a government company. He submitted that therefore the Applicant was not discharging public duties. He has also submitted that necessary sanction u/s. 188 of the Cr.P.C. was not obtained from the appropriate authority.

5. He submitted further that the Applicant is a resident of Delhi and he is ready to abide by conditions as may be imposed by the Court, including not leaving the country without the permission of this Court.

6. *Per contra*, learned Counsel for the Respondent No. 1-CBI, submitted that minutes of meeting Ex. 74 under which the alleged parting gift and pension was paid to the Applicant, itself is a false and fabricated document. He submitted that it was found in the Applicant's custody which could not be have been so found. He submitted that according to the prosecution, the certified copy of the genuine minutes are produced at Ex. 72 and it is duly proved. He submitted that the Applicant could not have accepted the said amount, being a public servant and as such, he is properly convicted.

7. Learned Counsel for the Applicant has relied upon the judgments of

Bhagwan Rama Shinde Gosai and Other vs State of Gujarat¹, Kiran Kumar Vs. State of M. P.² Learned Counsel for the Respondent No. 1-CBI has relied upon the judgment of **Omprakash Sahni vs. Jai Shankar Chaudhary & Anr.³**

8. I have considered the rival submissions. Perused the record.

9. In **Bhagwan Rama Shinde** (supra), Hon'ble Supreme Court, while considering the case of convicts u/s. 392 r/w 397 of IPC who were sentenced to 10 years of rigorous imprisonment, has held that when a convicted person is sentenced to a 'fixed period sentence' and when he files a statutory appeal, suspension of sentence can be considered by the Appellate Court liberally, unless exceptional circumstances are shown.

10. In **Kiran Kumar Vs. State of M. P.** (supra), Hon'ble Supreme Court, while considering the case of a convict u/s. 460, 376, 325 & 506 of IPC, who was sentenced to 7 years of imprisonment, has held that when a person is convicted and sentenced to a short-term imprisonment, the normal rule is that sentence should be suspended pending appeal, and rejection is only by way of exception. It is also held that if the short-term sentence is allowed to run out during pendency of the appeal, the appeal itself will become infructuous for all practical purposes. In this Judgment, Hon'ble Supreme Court has followed **Bhagwan Rama Shinde** (supra).

11. In a recent case of **Omprakash Sahni Vs. Jai Shankar Choudhary (supra)**, the Hon'ble Supreme Court, was considering the case of a convict u/s. 302, 120-B, 506 r/w 34 of IPC and 27 of Arms Act, who was sentenced to 7 years of imprisonment

1 (1999) 4 SCC 421

2 (2001) 9 SCC 211

3 (2023) 6 SCC 123

12. In the present case, the Applicant is sentenced to suffer fix period sentence and it is a short term imprisonment of 4 years and he is not convicted for offences comparable to those under consideration in Omprakash Sahni (supra). There is no involvement of arms. In clause 7 of the impugned Order it is already directed that seized fixed deposit be liquidated and amount be confiscated with accrued interest and credited to State Treasury. Admittedly, the Applicant was never arrested during the investigation and has been taken into custody only on conviction under the impugned order.

13. It must be noted that pursuant to the earlier order of this Court passed in this Application dated 22/11/2024, the Applicant was taken to the hospital by the jail authority and the medical report received, is placed on record by learned APP. The report shows that the Applicant is suffering from Diabetic Retionpathy for last 25 years with Glaucoma and is also suffering from Ischemic Heart disease and he is currently under medication for the said purpose.

14. The Appeal is admitted in the year 2024 and is not likely to be taken up for final hearing in short time. No exceptional circumstances are brought to my notice to deny interim bail.

15. Therefore in the aforesaid facts and circumstances, I am inclined to grant bail. Hence, the following order:

(a) The remaining sentence of the Applicant under the impugned order dated 04/11/2024 passed in CBI Special Case No. 112 of 2017 is suspended during the pendency of the Appeal.

(b) The Applicant be released on bail on execution of P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.

(c) The Applicant is directed not to leave the country without prior permission of this Court.

(d) The Applicant is also directed to report to the concerned Police Station if so required during pendency of the appeal.

(M. M. SATHAYE, J.)

16. This application was heard on 28.11.2024 and was kept today for passing orders. After the order is passed, learned Counsel for the Applicant seeks liberty to separately agitate/press prayer clause (c) of the Application (regarding stay to confiscation and liquidation of the amount). Liberty is granted as prayed, subject to the order passed today.

(M. M. SATHAYE, J.)