



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 894 OF 2024

IN

CRIMINAL APPEAL NO. 521 OF 2024

Avinash S/o. Marotrao Kakade

Vs.

The State of Maharashtra, C.B.I., A.C.B. Nagpur

WITH

CRIMINAL APPLICATION (APPA) NO. 851 OF 2024

IN

CRIMINAL APPEAL NO. 491 OF 2024

Manilal Paul

Vs.

CBI, CGO Complex, Seminary Hills, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.A. Dhawas, Advocate for the Appellant in Appeal No.521/2024.
Mr. Prakash Naidu, Advocate for the Appellant in Appeal No.491/2024.
Mr. Prashantkumar Sathianathan, Special Prosecutor for the Respondent.

CORAM : G. A. SANAP, J.

DATED : 18th NOVEMBER, 2024.

. Heard learned advocates for the appellants/accused and learned Special Prosecutor for the respondent. Perused the record and proceedings.

2. These appeals arise out of the judgment and order dated 26th August, 2024, passed by the learned Special Judge-1, Kelapur, Dist. Yavatmal, whereby the learned Judge convicted the accused No.1 for the offences punishable under Sections 7, 13(2) r/w Section 13(1)(d)(i) of the Prevention of Corruption Act, 1988 (for short, "PC Act") and sentenced him to suffer rigorous imprisonment for 5 years for the offence punishable

under Sections 7, 13(2) r/w Section 13(1)(d)(i) of the PC Act and accused No.2 for the offences punishable under Sections 7 r/w Section 15 r/w Section 13(2) r/w Section 13(1)(d)(i) of the PC Act and sentenced him to suffer simple imprisonment for 5 years for the offence punishable under Section 7 of the PC Act and simple imprisonment for 3 years for the offences punishable under Sections 15 r/w 13(2) r/w 13(1)(d)(i) of the PC Act.

3. It is the contention of the appellants that they have good case on merits. During the pendency of the trial, they were on bail. They have not misused the liberty. Learned advocates for the appellants submitted that the evidence on record is not sufficient to prove the charge against the appellants beyond reasonable doubt. It is, therefore, submitted that, during the pendency of the appeals, the appellants be released on bail by suspending the substantive sentence.

4. Learned Special Prosecutor submitted that the evidence adduced by the prosecution is sufficient to prove the charge against the appellants. It is submitted that the learned Judge, on appreciation of the evidence, has recorded cogent reasons in support of the findings. It is further submitted that, at this stage, the merits of the matter cannot be gone into.

5. The substantive sentence for the first offence is 5 years and the substantive sentence for the second offence is 3 years. I have perused the record and proceedings. There is no grievance that the appellants, during the pendency of the trial, misused the liberty granted to them.

6. Learned advocates for the appellants took me through the record to pinpoint the lacunas in the judgment. It is to be noted that while deciding the application for suspension of sentence, the merits of the matter cannot be gone into. In this case, the maximum substantive sentence is of 5 years rigorous imprisonment. The appellants have deposited the fine amount. In view of this, it would be just and proper to grant the applications. Hence, the following order:

7. Accordingly, the applications are **allowed**.

i] The substantive sentence shall remain suspended during the pendency of the appeals.

ii] Appellant/accused – **Avinash S/o. Marotrao Kakade** and Appellant/accused - **Maniklal Paul** be released on bail on their furnishing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety in the like amount.

iii] The bail before the trial Court.

8. The applications stand disposed of accordingly.

9. Combined paper-book be prepared for both the appeals.

(G. A. SANAP, J.)

Vijay