

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

**INTERIM APPLICATION NO. 2705 OF 2021
WITH
INTERIM APPLICATION NO. 2706 OF 2021
IN
CRIMINAL APPEAL NO. 917 OF 2021**

Mukesh Dalpatsingh Rajput Applicant
v/s.

The State of Maharashtra Respondent

Mr. Ganesh Gole i/b. Mr. Ateet Shirodkar for the Applicant.
Mr. N.B. Patil, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 30th NOVEMBER, 2021.

P. C. :-

. By these Applications filed under section 389 of Cr.P.C., the Applicant has sought suspension of sentence of imprisonment and fine imposed by judgment dated 28/09/2021 in Special (MCOCA) Case No.5/2016.

2. Heard Mr. Ganesh Gole, learned counsel for the Applicant and Mr. N.B. Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The Applicant who was one of the accused in Special (MCOCA) Case No.5/2016 was tried for offences punishable under sections 143, 144, 147, 307, 323, 387, 395, 397, 120-B, 427, 504, 506 r/w. Section 149 of the Indian Penal Code, section 3/25, 4/25 of The Arms Act, Section 135 of Bombay Police Act and section 3(1)(ii), 3(2) and 3(4) of The Maharashtra Control of Organized Crime (MCOC) Act, 1999.

4. The learned Special Judge has held that the offence under IPC are not proved against the Applicant and has acquitted the Applicant in respect of the said offence. The Applicant has been held guilty of offence under section 3(4) of MCOC Act and has been sentenced to undergo rigorous imprisonment for eight years with fine of Rs.5,00,000/- in default to undergo rigorous imprisonment for two years.

5. Mr. Ganesh Gole, learned counsel for the Applicant states that the Applicant is in custody since 01/06/2016. He has served almost five years of substantive sentence. The Appeal has been admitted. In view of the large pendency of cases, it will not be possible to hear the Appeal finally at least in next couple of years. Hence, the sentence of imprisonment if not suspended, the challenge itself will be rendered

infructuous.

6. The Appellant is also sentenced to pay fine of Rs.5 lakhs. The sentence of fine is also stayed subject to deposit of 25% of the fine amount within eight weeks from the date of this order. Hence, the Interim Applications are allowed on following terms and conditions :-

(a) Substantive sentence imposed against the Applicant by judgment dated 28/09/2021 in Special (MCOCA) Case No.5/2016, is suspended pending hearing of the Appeal ;

(b) The Applicant to deposit 25% of the fine amount before the Trial Court within eight weeks from the date of this order ;

(c) The Applicant shall be released on bail on furnishing P.R. Bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount to the satisfaction of the Trial Court ;

(d) The Applicant shall report to the Trial Court once in

two months on the day/ date specified by the Trial Court, till the Appeal is finally disposed of ;

(e) The Applicant shall keep the trial Court informed of his current address and mobile/contact numbers and/or change of residence or mobile details, if any, from time to time ;

(f) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file application seeking cancellation of bail.

7. Interim Application Nos.2705/2021 & 2706/2021 stand disposed of accordingly.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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