

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 11 of 2024
With
CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2024
In R/CRIMINAL APPEAL NO. 11 of 2024

=====
VIREN NANUBHAI PATEL
Versus
STATE OF GUJARAT
=====

Appearance:

MR SANJAY PRAJAPATI(3227) for the Appellant(s) No. 1
MR RC KODEKAR for the Opponent(s)/Respondent(s) No. 2
MR BHARGAV PANDYA, APP for the Opponent(s)/Respondent(s) No. 1
=====

CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 05/01/2024

ORAL ORDER

ORDER IN CRIMINAL APPEAL:-

ADMIT.

Learned APP waives service of notice of admission for and on behalf of the respondent-State. Mr. R. C. Kodekar, learned advocate waives service of notice of admission on behalf of respondent no.2.

ORDER IN CRIMINAL MISC. APPLICATION:-

- 1. Rule.** Learned APP waives service of notice of Rule on behalf of the respondent-State. Mr. R. C. Kodekar,

learned advocate waives service of notice of rule on behalf of respondent no.2.

2. By preferring present application under Section 389 of the Code of Criminal Procedure, applicant original accused has prayed to suspend the judgment and order of conviction and sentence dated 28/12/2023 passed by learned Special Judge, CBI Court No.1, Ahmedabad in CBI Special Case No.17 of 2009 and release the applicant on bail till the hearing and final disposal of the present Criminal Appeal.
3. Vide the aforesaid judgment and order of conviction and sentence dated 28/12/2023, learned trial court was pleased to convict the present applicant and sentenced to undergo simple imprisonment of six months and fine of Rs.25,000/- and in default of payment of fine, further simple imprisonment of two months for the offence punishable under Section 7 of the Prevention of Corruption Act; simple imprisonment of one year and fine of Rs.25,000/- and in default of payment of fine, further simple imprisonment of two months for the offence punishable under Section 13(1)(D) read with Section 13(2) of the Prevention of Corruption Act. It was also ordered that both the sentences were to run concurrently.
4. Heard learned advocate for the applicant and learned APP for the respondent-State.

5. It is submitted by learned advocate for the applicant that the fine is paid on the same day. That the learned trial court, thereafter, has suspended the order of conviction and sentence till the appeal period vide order dated 28/12/2023 itself. It is further submitted by learned advocate for the applicant that the criminal appeal preferred by the applicant is admitted today by this court and it would take considerable long period for final hearing of this appeal and therefore, the impugned judgment and order of conviction and sentence is required to be suspended and the applicant may be released on bail during the hearing and final disposal of the present criminal appeal.
6. Learned APP for the respondent-State has objected the submissions made by learned advocate for the applicant and submitted that after recording evidence of the prosecution, learned Sessions Court has rightly convicted the present applicant and therefore, the prayer made in this application may not be granted by this court.
7. Mr. R. C. Kodekar, learned advocate for respondent no.2 has no objection for grant of bail as the fine is paid.
8. At this juncture, it would also be fit to refer to the judgment of the Apex Court in the case **Bhagwan Rama Shinde Gosai Vs. State of Gujarat** reported in (1999)

4 SCC 421, wherein, it has been held that when the appellate court finds that due to practical reasons such appeal cannot be disposed of expeditiously the appellate court must be bestow special concern in the matters of suspending the sentence.

9. Having heard learned advocate for the present applicant accused as well as learned APP for the respondent-State, it appears that final hearing of the present criminal appeal would take considerable time and till then, the presence of the present applicant accused is not required in judicial custody. Hence, prayer made by the present applicant accused in the present application requires consideration qua suspension of the sentence and release on bail till hearing and final disposal of the present criminal appeal.

10. For the aforesaid reasons, present application stands allowed. Pending hearing and final disposal of aforesaid Criminal Appeal, execution of order of sentence dated 28/12/2023 passed by learned Special Judge, CBI Court No.1, Ahmedabad in CBI Special Case No.17 of 2009 shall be suspended and the applicant is ordered to be released on bail on furnishing personal bond of Rs.10,000/- (Rupees Ten thousand only) with surety of the like amount to the satisfaction of the trial court and on the following conditions:

(i) shall not take undue advantage of liberty or

misuse liberty;

(ii) shall not leave India without prior permission of this Court;

(iii) shall furnish the present address of his residence to the Court concerned at the time of execution of the bond and shall not change the residence without the prior permission of this Court;

(iv) shall maintain law and order;

(v) shall not indulge in any activity leading to breach of public peace and tranquility.

11. Present application stands disposed of accordingly.
Rule is made absolute. Direct service is permitted.

(S. V. PINTO,J)

ILA