

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

**INTERIM APPLICATION NO. 4862 OF 2025
IN
CRIMINAL APPEAL NO.84 OF 2016
WITH
CRIMINAL APPEAL NO.84 OF 2016**

Vinod @Sai Damodar Ghogale ... Applicant/ Appellant

Versus

State of Maharashtra and Anr. ... Respondent

**WITH
CRIMINAL APPEAL NO.980 OF 2015**

Sanjit Krishna Shetty @ Lafda Shetty ... Appellant

Versus

State of Maharashtra ... Respondent

**WITH
CRIMINAL APPEAL NO.1047 OF 2015**

Mahesh Babji Kalingan ... Appellant

Versus

State of Maharashtra ... Respondent

Mr. Subhash Jha along with Mr. Siddharth Jha, for the Applicant/
Appellant.

Mr. Chanderkant Jadhav, ACP, Crime Branch, D-1.

Ms. Vaishali Sarwade, API, Crime Branch, Unit-7, Ghatkopar, Mumbai.

Mr. Mayur S. Sonavane, APP for the Respondent-State.

CORAM : SANDESH D. PATIL, J.

DATE : 31st DECEMBER, 2025.
(VACATION COURT)

P.C.:

1. By the present Application, the Applicant is seeking stay of the judgment and order dated 23/09/2015 passed by the learned Special Judge in MCOC Special Case No.2 of 2010 along with MCOC Special Case No.7 of 2010 arising out of DCB, CID F.I.R. No.154 of 2009 (corresponding F.I.R. No.286 of 2009 of Vikhroli Police Station, Mumbai). By the impugned judgment and order, the Applicant who is Accused No.5 was convicted for offence under Section 3(2) of the MCOC Act, and was sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.5 lacs; in default to undergo rigorous imprisonment for three years. He was also convicted under Section 3(4) of the MCOC Act, however, in light of the sentence imposed under Section 3(2), no separate sentence was awarded.

2. The Applicant thereafter preferred the present Appeal. The Appeal was admitted by this Court on 09/02/2016. The Applicant had preferred an application bearing Criminal Application No. 91 of 2016 for suspension of sentence and release the Applicant on bail during pendency of the Appeal filed by him. That application for suspension and bail was rejected by this Court vide order dated 02/03/2017. The Applicant being aggrieved and dissatisfied with the judgment and order passed by Single Bench of this Court, preferred Special Leave Petition before the Apex Court. The Apex Court set aside the order passed by this Court and released the Applicant on bail vide order dated 03/10/2017.

3. Mr. Subhash Jha, learned Advocate for Applicant/ Appellant states that he had never preferred an application of stay of the judgment and order. He further states that he wants to contest the election for the post of Municipal Corporator, however, because of his conviction there is impediment to contest the election, on account of

bar of Section 8 of the Representatives of Peoples Act.

4. Mr. Mayur Sonavane, learned APP for the Respondent-State states that after the impugned judgment and order was passed there is yet another offence registered against the Applicant under Sections 307, 143, 144, 148, 149, 120B of the Indian Penal Code. Therefore, he seeks rejection of the present application.

5. Heard learned Counsel appearing for the respective parties. The Applicant was behind the bars for more than seven years. The Appeal is already admitted by this Court vide order dated 09/02/2016. The only question which arises before this Court is whether the impugned judgment and order deserves to be stayed in light of that fact that the sentence is of a fixed imprisonment of 10 years.

6. At the time of filing of the Appeal and at the time of decision of the bail application, as per the statement of Mr. Subhash Jha, learned Advocate for the Applicant/ Appellant, no application for stay was

preferred. For the first time, the present application is preferred in the light of ensuing election of the Municipal Corporation. The Appeal is already admitted and the Applicant has undergone more than 7 years of sentence. The Appeal was not taken for hearing since February, 2016. The Appeal is admitted. Prima facie, it appears that, the question of sanction arises in this matter. So also the requirement of fulfillment of conditions of filing of two or chargesheets against each of the accused within a period of ten years as contemplated under definition of organized crime arises. Taking into consideration the judgment of the Apex Court in the matter of *Ranjitsing Brahmajeetsing Sharma Vs. State of Maharashtra and Anr. [(2005) 5 SCC 294]*, this is a fit case where the sentence needs to be stayed. The Applicant wants to contest the election to the Municipal Corporation, although right to contest election is not a fundamental right; yet his right to participate in a democratic process is surely likely to be effected. The present Application is preferred as per judgment of the Apex Court in the matter of *Ravikant S. Patil Vs. Sarvabhuma S. Bagali [(2007) 1 SCC 673]*. For the reasons mentioned hereinabove, I

am inclined to pass the following order.

ORDER

i. Pending the hearing and final disposal of the application, this effect, implementation and execution of the Judgment and Order dated 23/09/2015 passed by the learned Special Judge in MCOC Special Case No.2 of 2010 along with MCOC Special Case No.7 of 2010 arising out of DCB, CID F.I.R. No.154 of 2009 (corresponding F.I.R. No.286 of 2009 of Vikhroli Police Station, Mumbai) is stayed.

7. Stand over to **21st January, 2026** for further consideration.

8. All concerned parties to act on the authenticated copy of this order.

(SANDESH D. PATIL, J.)