

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

CRIMINAL APPEAL NO. 135 OF 2018

DHARMENDRA S/o NANAJI KHOBRADE

VERSUS

STATE OF MAH., THRU. P.S.O., P.S., RAM NAGAR THRU.DY.SP, A.C.B., CHANDRAPUR

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Sumeet Joshi, Advocate for the appellant.
Mr. A. D. Sonak, A. P. P. for the respondent/State

CORAM : V. M. DESHPANDE, J.

DATE : MARCH 07, 2018.

Heard Shri Sumeet Joshi, the learned counsel for the appellant.

ADMIT.

Call R & P

Shri A. D. Sonak, the learned Additional Public Prosecutor waives service of final hearing on behalf of the respondent/State.

Criminal Application (APPA) No.200 of 2018

This is an application under Section 389 of the Code of Criminal Procedure for suspension of substantive jail sentence and for grant of bail.

Heard Shri Sumit Joshi, the learned counsel for the applicant/appellant and Shri A. D. Sonak, the learned Additional Public Prosecutor for the respondent/State. Also perused the judgment impugned, and the copies of the deposition of the relevant witnesses, which are placed

on record along with the application.

The applicant/appellant is convicted for the offences punishable under Section 7 and under Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. On both the counts, the applicant/appellant is directed to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/- on each count. The sentences are directed to run concurrently.

After perusing the relevant evidence, I am satisfied that the applicant/appellant has made out a case in his favour for suspension of substantive sentence during the pendency of the appeal and for grant of bail.

The applicant has also deposited the fine amount of Rs.20,000/- as it could be seen from the receipt placed on record.

The learned counsel for the applicant submitted that the applicant, after the judgment, moved an application (Exh.70) for suspension of substantive jail sentence and the learned Judge of the Court below has granted the said application and has suspended the jail sentence to enable him to approach this Court.

The applicant was on bail and at no point of time he has misused the liberty granted to him, is the statement made by the learned counsel for the applicant. Further, the quality of the evidence, in my view, permits this Court to exercise the discretion in favour of the applicant/appellant. Hence, I pass the following order :

ORDER

- 1] The criminal application is allowed.
- 2] The substantive jail sentence imposed upon the applicant/appellant by the learned Additional Sessions Judge-3 and Special Judge, Chandrapur in Special ACB Case No. 09/2011 convicting the applicant/appellant for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, shall remain suspended during the pendency of this appeal.
- 3] The applicant/appellant Dharmendra S/o Nanaji Khobragade be released on same bail, however on executing fresh bail bonds before the Court below.
- 4] The applicant/appellant shall remain personally present in this Court at the time of final hearing of this appeal.
- 5] The criminal application (APPA) No. 200/2018 is allowed and disposed of.

JUDGE*Diwale*