

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2023****In R/CRIMINAL APPEAL NO. 1925 of 2023**

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SHYAM SUNDER BALANI

Versus

STATE OF GUJARAT

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Appearance:

MR YASH K DAVE(10269) for the PETITIONER(s) No. 1

VISHAL K ANANDJIWALA(7798) for the PETITIONER(s) No. 1

MR RC KODEKAR(1395) for the RESPONDENT(s) No. 2

MR TIRTHRAJ PANDYA, APP for the RESPONDENT(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO**Date : 26/10/2023****IA ORDER**

1. This application is filed by the applicant praying that pending the hearing and disposal of the appeal, the substantive order of sentence be suspended and the applicant be continued on same bail fresh bond on any terms and conditions which he will strictly adhere to.
2. Learned advocate for the applicant submits that the conviction and sentence is essentially under sections 7, 13(1)(d) read with section 13(2) of the Prevention of Corruption Act. It is submitted by learned advocate for

the applicant that the impugned judgment and order is erroneous and as such, there is no evidence against the present applicant. It is submitted that during the trial, the applicant was on bail and he has not misused the liberty. Therefore, it was requested by learned advocate for the applicant to enlarge the applicant on bail till the hearing and final disposal of the captioned Criminal Appeal.

3. Learned APP for the respondent - State has strongly objected the submissions made by learned advocate for the applicant and submitted that trial Court has rightly convicted the present applicant as he has been involved in the serious offence and requested this Court to dismiss the present application.
4. Having heard learned advocate for the applicant as well as learned APP for the respondent - State, it appears that nothing is produced on record by the respondent-State that he has misused any liberty granted by learned Sessions Court while releasing him on bail. The

Criminal Appeal against the sentence preferred by the applicant has been admitted by this court on 11.8.2023 and said Criminal Appeal is not likely to be heard within near future. Considering all these factual aspect as well as evidence produced on record, this Court is of the view that this court has an ample power to suspend the sentence by exercising judicial discretion depending on the facts and circumstances of each case.

5. For the aforesaid reasons, present application stands allowed. Pending hearing and final disposal of aforesaid Criminal Appeal, the order of sentence imposed upon the applicant vide the judgment and order dated 25.7.2023 passed by the learned Judge, Special CBI Court No.1, City Civil Court, Ahmedabad in Special CBI Case No.37 of 2000 is suspended and the applicant is ordered to be released on bail on furnishing personal bond of Rs.10,000/- (Rupees Ten thousand only) with one surety of the like amount to the satisfaction of the trial court and on the following conditions:

- (a) shall maintain law and order;
- (b) shall not indulge in any activity leading to breach of public peace and tranquility.
- (c) shall not leave the State of Gujarat without prior permission of this Court.

6. Rule is made absolute. Direct service is permitted.

H.M. PATHAN

(S. V. PINTO,J)