



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1841 OF 2026
IN
CRIMINAL APPEAL NO.1094 OF 2025**

Anmol Atul Jadharao ... Applicant
versus
The State of Maharashtra and Anr. ... Respondents

Mr. Kuldeep Nikam (through VC) with Mr. Om Latpate, for Applicant.
Smt. R.S.Tendulkar, APP for State.
Mr. Avinash Avhad for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 10 SEPTEMBER 2026

ORDER :

1. Heard the learned Counsel for the parties.
2. This is an application for suspension of sentence and to enlarge the applicant on bail. In fact, this is a second application for bail. First application being IA No.3484 of 2025 in Cri. Appeal No.1094 of 2025, was dismissed as the Applicant, after the Court had expressed its disinclination to grant relief, had sought permission to withdraw the application with liberty to file a fresh application if the appeal was not taken up for hearing within a period of six months thereof.
3. By a judgment and order dated 9 July 2025, the Applicant has been convicted for an offence punishable under Section 307 of the Indian Penal Code, and sentenced to suffer imprisonment for five years and pay a fine of

Rs.1000/- with default stipulation.

4. The gravamen of indictment against the Applicant in Sessions Case No.229 of 2013 was that, the Applicant was harassing and coercing the Respondent No.2 victim, who was then studying in third year of BCS degree course, to maintain friendship with him. On 10 December 2012, the Applicant allegedly accosted the victim in front of the college while the victim and her friend (PW4) were proceeding towards the vehicle of victim's friend. The Applicant was armed with a sickle. The Applicant chased and assaulted the victim. The Applicant threatened the other students and persons who tried to intervene. The victim suffered grievous bleeding injuries. Thus, the Applicant was sent for trial for having attempted to commit murder of the victim.

5. After the appraisal of the evidence, the learned Additional Sessions Judge, Pune, was persuaded to return a finding of guilt against the Applicant and convict and sentence the Applicant, as indicated above.

6. Mr. Nikam, learned Counsel for the Applicant, submitted that, though the testimony of the victim finds apparent corroboration in the evidence of her friend (PW4), and two eye witnesses (PW3 and 5), yet, the question as to whether the prosecution has succeeded in establishing the commission of an offence punishable under Section 307 of IPC, is debatable. Attention of the Court was invited to the evidence of the medical officer, to demonstrate that the victim had not suffered any incised wound and had sustained a head

injury and a CLW over the right shoulder, which were designated as grievous.

7. Mr. Nikam further submitted that the aspect of delay in lodging the FIR also bears upon the veracity of the testimony of the victim. In any event, since the Applicant has been in custody for almost 1 year and four months and it is unlikely that the appeal can be heard expeditiously, the Applicant deserves to be enlarged on bail, lest the appeal would be rendered infructuous, submitted Mr. Nikam.

8. Smt. Tendulkar, learned APP and Mr. Avhad, learned Counsel for Respondent No.2 – victim, stoutly opposed the prayer for bail. It was submitted that there is overwhelming evidence; direct, circumstantial and medical, which establishes the guilt of the accused beyond reasonable doubt. Moreover, having regard to the fact that the Applicant had harassed the victim during the pendency of the trial after he was enlarged on bail, and had also indulged in an identical activity leading to his prosecution in Criminal Case No.386 of 2017, he does not deserve to be enlarged on bail. It was submitted that, the applicant had won over the victim in that case and thus she did not support the prosecution.

9. I have given careful consideration to the material on record and the submissions canvassed across the bar.

10. The endeavour of Mr. Nikam to demonstrate, on the basis of the medical evidence, that the offence punishable under Section 307 of IPC,

cannot be said to have been proved, does not merit acceptance, at this juncture. It is well recognized, meticulous evaluation of the evidence is impermissible while considering the prayer for suspension of sentence. The Appellate Court can only examine whether there is such patent infirmity, apparent or gross defect which would justify a prima facie satisfaction that, in the ultimate analysis, the conviction may not be sustainable. To put it in other words, it has to be seen whether the Appellant has a fair chance of success in the Appeal. At this stage, the evidence cannot be re-appreciated with a view to pick-up lacunae, loopholes or shortcomings in the prosecution case.

11. Prima facie, the testimony of the victim is supported by ocular account of other witnesses and medical evidence. Thus, it cannot be said that, the Applicant has succeeded in making out a prima facie case that he has a strong chance of success in appeal.

12. This leads me to the aspect of the Applicant having been sentenced to suffer a fixed term sentence. Ordinarily, when a person is sentenced to a fixed term, the Appellate Court is expected to adopt a liberal approach in the matter of suspension of sentence. In the case of **Bhagwam Rama Shinde Gosai and Ors. V/s. State of Gujarat**¹, the Supreme Court enunciated that when a convicted person is sentenced to a fixed period of sentence and when he files appeal under any statutory right, suspension of sentence can be considered

1 (1999) 4 SCC 421

by the appellate court liberally unless there are exceptional circumstances. This principle has been consistently followed. Are there exceptional circumstances in the case at hand, to deviate from the aforesaid principle ?

13. The following circumstances dissuade the Court from exercising the discretion in favour of the Applicant, though he has been sentenced to suffer a fixed term sentence. Firstly, there is evidence to indicate that, before the occurrence in question, the Applicant had harassed, intimidated and assaulted the victim. Secondly, the Applicant chased and assaulted the victim armed with a deadly weapon in the precincts of a College in broad daylight and in the presence of a number of students and other persons. Thirdly, the victim testified that, after the Applicant was released on bail during the pendency of trial, the Applicant again harassed her. Fourthly, after the Applicant was enlarged on bail, he was prosecuted on the allegations of having harassed and outraged the modesty of another girl. Fifthly, there is no assurance that the Applicant will not abscond if he is enlarged on bail. It is pertinent to note that, immediately after the pronouncement of the judgment, the applicant ran away from the Court hall and the learned Additional Sessions Judge was required to issue a non-bailable warrant and, eventually, after three months, the Applicant surrendered to undergo the sentence.

14. In the considered view of this Court, the case at hand falls in the exceptional category where the Court may refuse to suspend the sentence.

Instead, this Court would make an endeavour to hear and decide the appeal finally as the appeal has been admitted and record and proceedings have also been called for.

15. Hence, the following order :

ORDER

- (i) The Interim Application stands rejected.
- (ii) Criminal Appeal No.1094 of 2025 be listed for hearing and final disposal on 15 October 2026.

(N.J.JAMADAR, J.)