

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.71 OF 2015  
IN  
CRIMINAL APPEAL NO. 657 OF 2014**

Bhimrao s/o. Dipaji Gaikwad,  
Age: 55 Years, Occ. Service,  
R/o. VRDE Quarters, Ahmednagar,  
Dist. Ahmednagar.

**.. APPLICANT**

**VERSUS**

The State of Maharashtra,  
Through: Police Station Officer,  
Nagar Taluka Police Station,  
Ahmednagar, Dist. Ahmednagar.

[Copy to be served on Public Prosecutor,  
High Court of Judicature of Bombay  
at Aurangabad]

**.. RESPONDENT**

.....  
Mr. N.V.Gaware, Advocate holding for Mr. G.K. Sontakke,  
Advocate for Applicant  
Mr. S.G.Nandedkar, APP for Respondent – State  
.....

**CORAM: S.S.SHINDE &  
A.M.BADAR, JJ.**

**Reserved on : 28.01.2015  
Pronounced on: 04.02.2015**

**ORDER: [Per: S.S.Shinde, J.]**

1] This Application is filed with following prayer:

A] Grant this criminal application and impugned  
judgment and order of conviction, dated

30.10.2014, passed by the learned Additional Sessions Judge-2, Ahmednagar in Sessions Case No. 59 of 2009 thereby convicting the Applicant for the offences punishable under Sec. 323, 324, 504, 506, 34 of Indian Penal Code may kindly be stayed and for that purpose of issue necessary orders.

2] The learned counsel appearing for the applicant submits that, applicant is serving in Vehicle Research and Development Establishment. The services of the applicant are governed by the provisions of CCS [Conduct] Rules, being employee of the Central Government. It is submitted that, the authorities have informed the applicant that, if the applicant failed to furnish the copy of the order of suspension of the conviction, he would be placed under the suspension or his services would be terminated. It is further submitted that, on 12.12.2014, the Director of VRDE, Ahmednagar has issued the show cause to applicant and has called further explanation and also directed the applicant to tender the relevant documents to avoid the suspension as per the CCE [Conduct] Rules, 1965. It is further submitted that, the applicant has reasonable apprehension that, his services would be put to an end by

the authorities of VRDE on account of conviction suffered by the applicant. It is further submitted that, if the applicant is suspended or prohibited from joining of the duty, the applicant would be put to serious hardships and jeopardy. The applicant is having two sons namely; Pravin and Vikas. It is further submitted that, the elder son of the applicant namely Pravin has been diagnosed for epilepsy on account of formation of tumor in the brain. Since 2010, said Pravin is taking treatment with Manasdeep Sciatic and Neuro Care Point, Ahmednagar. It is further submitted that, the elder son of the applicant Pravin also requires regular treatment and continuous monitoring of clinical parameters. It is further submitted that, the younger son of the applicant namely Vikas has completed his BCS Course and is aspiring higher studies. The applicant has also old aged mother namely Anusaya Dipaji Gaikwad, having aged about 85 Years. It is further submitted that, on account of old age, the mother of the applicant also requires regular treatment for her old aged ailments. It is further submitted that, the applicant is only bread earner of his family and has to shell out substantial amount for the medication of elder son Pravin and the mother. The applicant has also requires to spend substantial amount towards the studies of his

younger son Vikas. The applicant has no other source of income. There is also no clinching evidence against the applicant to sustain the conviction. Moreover, the sentence is also maximum of one year.

3] The learned counsel appearing for the applicant has placed reliance in the case of **Navjot Singh Sidhu Vs. State of Punjab and Anr.**<sup>1</sup>, and also Judgment of this Court in the case of **Anil Chhabildas Chaudhari Vs. State of Maharashtra**<sup>2</sup>, and also in the case of **Rajendra Vishwanath Bhopale Vs. State of Maharashtra**<sup>3</sup> and submits that, the application may be allowed.

4] On the other hand, the learned Additional Public Prosecutor vehemently opposed the prayer that, the suspension of the conviction is an exception and not rule.

5] We have given careful consideration to the submission of the learned counsel appearing for the applicant and the learned APP appearing for the respondent – State. With their able assistance, we have perused the

---

1. AIR 2007 SC 1003

2. 2012 [1] Bom.C.R.[Cri.] 406

3. 2009 [0] BCI 537

findings recorded by the trial Court, and also the material placed on record and the Judgments cited by the parties.

6] We have perused the Judgment of the trial Court, *prima facie* it appears that, the findings recorded by the trial Court are in consonance with the evidence on record. Since the appeal of the applicant is pending, we deem it appropriate not to elaborate on the evidence.

7] So far as reliance placed by the learned counsel for the applicant in the case of **Navjot Singh Sidhu** [supra] is concerned, it appears that, the Supreme Court in the said judgment, while considering medical evidence, held that the deceased was of weak heart and the medical evidence does not conclusively establish that the death occurred due to blow given on the head. It is further observed that, the incident has no correlation with the public life of the appellant which he entered much later in 2004 when he was elected as a Member of the Parliament. Therefore, in the facts of that case, the Supreme Court suspended the conviction.

8] In series of Judgments, the Supreme Court has

held that suspension of conviction is an exception and not a rule. Apart from this, we do not see any extra ordinary situation to suspend conviction of the applicant. In case the conviction is not suspended, at the most the applicant / appellant may loose his employment / job. If his appeal is allowed, certainly, the position is not irreversible, inasmuch as, he can receive all benefits.

Hence, the application for suspension of conviction stands rejected.

Sd/-

**[A.M.BADAR, J.]**

Sd/-

**[S.S.SHINDE, J.]**

...  
DDC