

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

Criminal Application No. 3692 of 2016
(In Criminal Revision Application No. 159 of 2016)

District : Aurangabad

Rajendra s/o. Bhimrao Bansode,	
Age : 33 years,	
Occupation : Agriculture,	.. Applicant
R/o. Warudkazi,	(Original accused
Taluka & District : Aurangabad.	no.2)

versus

The State of Maharashtra,	
Through Investigation Officer,	
Police Station, Chikalthana,	
Taluka & District : Aurangabad.	.. Respondent.

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Mr. Ravindra V. Gore, Advocate, for the applicant.

*Mr. N.T. Bhagat, Addl. Public Prosecutor, for
the respondent.*

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CORAM : Smt. SADHANA S. JADHAV, J.

DATE : 12TH JULY 2016

ORAL ORDER:

Heard the learned Counsel for the applicant
and the learned Addl. Public Prosecutor for the
respondent - State.

2. This is an application seeking suspension of

substantive sentence. The applicant herein was convicted by the Judicial Magistrate (First Class) [Court No.5], Aurangabad, in Regular Criminal Case No. 1705/2011, for the offence punishable under Section 324 and 323 read with Section 34 of the Indian Penal Code. He was sentenced to suffer rigorous imprisonment for 4 months and to pay fine of Rs. 500/-, in default of payment of fine, to suffer rigorous imprisonment for 15 days, in respect of the offence punishable under Section 324, read with Section 34 of the IPC. He was also sentenced to pay fine of Rs. 200/-, in default of payment of fine, to suffer simple imprisonment for 8 days, in respect of the offence punishable under Section 323 read with Section 34 of the IPC, vide judgment and order dated 31st December 2012. Being aggrieved by the said judgment and order, the applicant had filed Criminal Appeal No. 17/2013 before the Sessions Court at Aurangabad. The said Criminal Appeal came to be dismissed vide judgment and order dated 29th June 2016, passed by the learned Addl. Sessions Judge-6, Aurangabad.

3. Against the said judgments and orders, the applicant has preferred revision being Criminal Revision Application 159 of 2016 before this Court, wherein Rule has been issued today, by passing separate order therein.

4. The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial as well as during pendency of the appeal and has not committed breach of any conditions imposed upon him. It is further submitted that the applicant has a good case on merits. It is further submitted that the applicant has surrendered to his bail bonds on 29th June 2016 and is in custody.

5. The sentence imposed upon the applicant is a short term sentence. Hence, the substantive sentence deserves to be suspended.

6. The Application is allowed.

(a) The substantive sentence imposed upon the applicant by the Judicial Magistrate (First Class) [Court No.5], Aurangabad, in Regular Criminal Case No. 1705/2011, vide judgment and order dated 31st December 2012, which is confirmed by the appellate Court on 29th June 2016, is hereby suspended.

(b) The applicant be enlarged on bail, pending hearing and final disposal of Criminal Revision Application 159 of 2016 before this Court. Same bail, fresh bonds.

(c) The applicant shall report to the Court of

Judicial Magistrate (First Class), Aurangabad, once in six months on the date assigned by the learned Magistrate. Upon failure to attend any two consecutive dates, the prosecution would be at liberty to seek cancellation of bail.

7. The Criminal Application stands disposed of in the above terms.

8. Parties to act on an authenticated copy of this order.

(Smt. SADHANA S. JADHAV)
JUDGE

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