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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 CRIMINAL APPLICATION NO. 2878 OF 2021
IN
CRIMINAL APPEAL NO. 614 OF 2021
ANIS SHABBIR PATHAN
VS
THE STATE OF MAHARAHSTRA

Mr. Chaitanya Deshpande, Advocate for the appellant
Mrs. G.L. Deshpande, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 30-11-2021

P. C.

. This is an application under Section 389 of Code of Criminal Procedure for suspension of substantive sentence and to release the applicant on bail.

2. The applicant came to be convicted for the offence punishable under Section 324 and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs. 5,000/-, in default to suffer simple imprisonment for two months.

3. I have heard the learned counsel for the

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applicant and the learned APP for the respondent/State.

4. The learned counsel for the applicant submits that the applicant was under trial prisoner and he has already undergone about one year and six months of the sentence. It is submitted that considering the short term of sentence, the substantive sentence be suspended and the applicant be released on bail.

5. On the other hand the learned APP for the respondent/State submits that the accused was tried for the offence punishable under Section 376 of the IPC. The learned APP submits that she be granted time to take instructions as to whether the State is proposing to file the appeal against order impugned.

6. However, the fact remains that as on today the applicant is acquitted of the offence punishable under Section 376 of the IPC. The applicant has already undergone more than half of the sentence. Therefore, I am inclined to suspend the substantive sentence and to release the applicant on bail. In the result, following order is passed:

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ORDER

i. The application is allowed.

ii. The substantive sentence imposed by the trial court upon the applicant vide impugned judgment and order is suspended and the applicant is released on bail on furnishing the PR bond of Rs. 25,000/- [Rupees Twenty Five Thousand] with one surety in the like amount.

iii. Bail before the trial court.

[N. R. BORKAR, J.]

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