

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

**934 CRIMINAL APPLICATION NO. 2907 OF 2021  
IN  
APEAL/617/2021**

**PRAKASH KRUSHNA GHOTAKE  
VERSUS  
THE STATE OF MAHARASHTRA**

...  
Advocate for Appellant : Mrs. Charuta Deshmukh h/f Mr. P.S. Pawar  
APP for Respondent-State : Mr. S.P.Sonpawale  
...

**CORAM : N.R. BORKAR , J.  
DATE : 07<sup>th</sup> DECEMBER, 2021.**

**P. C. :**

1. This is an application under Section 389 of the Code of Criminal Procedure (for short "Cr.P.C.) 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 304 Part-II of the Indian Penal Code (for short "I.P.C.") and sentenced to suffer R.I. for 6 years and also to pay fine of Rs. 500/- in default to suffer R.I. for one month.

3. I have heard the learned counsel for the applicant and the learned A.P.P. for the Respondent-State.

4. According to the father of the deceased, who is also an eye witness to the incident, the present accused assaulted his son by

kick and fists blows on his chest and stomach.

5. Prima-facie, it appears that the deceased had not got immediate medical treatment, otherwise he would have survived.

6. Admittedly the applicant was on bail and he did not misuse the liberty granted to him. Considering these facts and circumstances and short term of sentence, I am inclined to suspend the substantive sentence and release the applicant on bail. Hence following order is passed :

#### **ORDER**

- a. Application is allowed.
- b. Substantive sentence imposed by the trial Court vide impugned judgment and order is suspended and the applicant is released on bail on executing P.R. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.
- c. Bail before the trial Court.

**( N.R. BORKAR )**  
**JUDGE**

mahajansb/