

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

**8 CRIMINAL APPLICATION NO.3038 OF 2021
IN APEAL/638/2021 WITH APEAL/638/2021**

SURESH @NAVNATH ASHOKRAO WAGHMARE ..APPLICANT
VERSUS
THE STATE OF MAHARASHTRA ..RESPONDENT

...
Advocate for Applicant : Mr. P. N. Muley
APP for Respondent-State: Mr. S. P. Sonpawale
...

**CORAM : N.R. BORKAR, J.
DATE : 20.12.2021**

PER COURT :-

- 1 This is an application under Section 389 of Code of Criminal Procedure for suspension of sentence and to release the applicant on bail.
2. The applicant came to be convicted for the offence punishable under Section 307 of Indian Penal Code and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs. 5,000/- in default to suffer two month simple imprisonment.
3. I have heard the learned counsel for the applicant and learned A.P.P for respondent State.

4. The learned counsel for the applicant submits that trial Court failed to appreciate the evidence on record in its correct perspective and arrived at wrong findings. He further submits that the applicant was on bail during trial and he did not misuse the liberty granted to him. Accordingly it is submitted that substantive sentence be suspended and the applicant be released on bail.

5. On the other hand, learned A.P.P for respondent State submits that applicant is convicted for serious offence of attempt to murder. It is submitted that considering the nature offence, the substantive sentence may not be suspended.

6. This Court has already admitted the appeal filed by the present applicant. Admittedly, the applicant was on bail during the trial. According to Medical Officer nature of injury was simple. Considering these facts and the short term of sentence, I am inclined to suspend the substantive sentence imposed upon the applicant by the Trial Court and to release him on bail. Hence, the following order is passed :-

O R D E R

- i. The application is allowed.
- ii. The substantive sentence imposed upon the

applicant by the trial Court in Sessions Case No. 13 of 2018 vide order dated 30.11.2021 is suspended till final decision of the Appeal filed by the applicant.

iii. The applicant be released on bail, on executing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.

iv. Bail before the Trial Court

(N. R. BORKAR)
JUDGE

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