

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

**30 CRIMINAL APPLICATION NO. 3187 OF 2021
IN
APEAL/667/2021**

**DEVRAM MARUTI GAVADE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Appellant : Mr.Jadhav Satej S.
APP for Respondent-State : Mr.S.P.Sonpawale
...

CORAM : N.R. BORKAR , J.

DATE : 20th DECEMBER, 2021.

P. C. :

1. This is an application under Section 389 of the Criminal Procedure Code (for short "Cr.P.C.") for suspension of sentence and to release the applicant on bail.

2. The applicant came to be convicted for the offence punishable under Section 353 of the Indian Penal Code and sentenced to suffer R.I. for a period of 3 months and to pay fine of Rs. 3,000/- , in default to suffer R.I. for 3 month.

3. The applicant is further convicted for the offence punishable under Section 504 of the Indian Penal Code (for short "I.P.C.") and sentenced to suffer R.I. for 3 months and to pay fine of

Rs. 1500/- in default to suffer S.I. for 1 month.

4. The applicant is further convicted for the offence punishable under Section 506 of I.P.C. and sentenced to suffer R.I. for 3 months and to pay fine of Rs. 1500/-, in default to suffer S.I. for 1 month. All the sentences are directed to run concurrently.

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

6. Learned counsel for the applicant submits that the First Informant PW 1 has admitted in his cross-examination that the applicant was injured in the incident in question and was initially taken to the Civil Hospital, Ahmednagar and thereafter as per the advice of Doctor he was shifted to the Sasoon Hospital, Pune.

7. It is submitted by the applicant was on bail during trial and he did not misuse the liberty granted to him. It is submitted considering the short term of sentence, substantive sentence be suspended and the applicant may be released on bail.

8. On the other hand the learned A.P.P. for respondent-State submits that the applicant is convicted for serious offence i.e. assault on public servant. It is submitted that considering the nature

of the offence substantive sentence may not be suspended and the applicant may not be released on bail.

9. Admittedly the applicant was on bail during trial. Considering this fact and short term of sentence, I am inclined to suspend the substantive sentence and to release the applicant on bail. Hence following order is passed :

ORDER

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

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