

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

**31 CRIMINAL APPLICATION NO. 3211 OF 2021
IN APEAL/672/2021**

**ARUN GYANDEV PUJARI @ ARUN GYANDEV BIRAJDAR AND
ANOTHER
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Appellants : Mr.Ostwal Abhaykumar D.
APP for Respondent-State : Mrs. R.P.Gaur
...

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 applicants on bail.

2. The applicants came to be convicted for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code and sentenced to suffer R.I. for a period of 2 years and to pay fine of Rs. 1,000/- each, in default to suffer R.I. for 1 month each.

3. The applicants have been further convicted for the offence punishable under Section 324 read with Section 34 of the Indian Penal Code (for short "I.P.C.") and sentenced to suffer R.I. for

1 year and to pay fine of Rs. 1,000/- each in default to suffer R.I. for 1 month.

4. I have heard the learned counsel for the applicants and the learned A.P.P. for the Respondent-State.

5. Learned counsel for the applicants submits that there is no evidence at all against the applicants to connect them with alleged crime. It is submitted that the applicants were on bail during the trial and they did not misuse the liberty granted to them. It is submitted considering these facts and short term of sentence, substantive sentence be suspended and the applicants be released on bail.

6. On the other hand the learned A.P.P. for the respondent-State submits that the applicants were tried for the offence punishable under Section 302 of I.P.C. along with other co-accused, however, the trial Court convicted them for the offence punishable under Section 326, 324 of the I.P.C. It is submitted that considering the nature of offence substantive sentence may not be suspended.

7. Admittedly, the applicants were on bail during trial. The Trial Court has acquitted them for the offence punishable under Section 302 of the I.P.C. Considering short term of sentence, I am inclined to suspend the substantive sentence and to the release the

applicants on bail. Hence following order is passed :

ORDER

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

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

mahajansb/