

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

**CRIMINAL APPLICATION NO.829 OF 2022
IN
CRIMINAL APPEAL NO.178 OF 2022**

Shaikh Aleem Shaikh Budhan	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr.Siddiqui Soheli E., Advocate for applicant
Mr.P.V.Dasalkar, APP for respondent

**CORAM : R.G.AVACHAT AND
R.M.JOSHI, JJ.**

DATE : NOVEMBER 23, 2022

ORDER :-

This is an application under Section 389 of the Code of Criminal Procedure. Vide judgment and order dated 21.12.2021 passed by learned Addl. Sessions Judge (Court No.10), Aurangabad, in Sessions Case No.685 of 2019, the applicant/applicant has been convicted for the offences punishable under Sections 302, 506 and 504 of Indian Penal Code (I.P.C.). For the offence under Section 302 of I.P.C., he has been sentenced to undergo imprisonment for life and to pay a fine of Rs.1,00,000/- with default stipulation. And for the offences under Sections 506 and 504 of I.P.C., he has been sentenced to rigorous imprisonment for one year and two months, respectively, with fine and default stipulation.

2. Heard learned counsel for the parties.
3. Learned APP has strongly opposed the application.
4. The applicant/appellant was in jail, pending trial. As such, he is behind the bars for little over four years. He has been convicted relying on the testimony of the witnesses, whose statements under Section 161 of the Code of Criminal Procedure, were recorded little over two months after the alleged offence. The appeal is not likely to come up for hearing in the immediate future. After having gone through the impugned judgment and the evidence relied on, we find it to be a fit case for allowing the application.
5. Hence, the following order:-
 - (i) The application is allowed;
 - (ii) During pendency of the appeal, the substantive sentence of imprisonment imposed by learned Addl. Sessions Judge (Court No.10), Aurangabad, vide order dated 21.12.2021 in Sessions Case No.685 of 2019, to stand suspended. The applicant be released on bail on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

[R. M. JOSHI, J.]

[R.G. AVACHAT, J.]

KBP