

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

**936 CRIMINAL APPLICATION NO. 946 OF 2022
IN CRIMINAL REVISION APPLICATION NO.91 OF 2022**

**MANOJ SURESH PATIL
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Sanket Palnitkar, Advocate h/f Shri. C. C. Deshpande,
Advocate for the applicant
Shri. R. D. Sanap, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 10th March, 2022**

PER COURT :-

1. Learned counsel Shri. Palnitkar h/f Shri. Deshpande for the applicant submits that applicant has compounded the offence under Section 338 of the Indian Penal Code and he has still been convicted under Section 279 of the Indian Penal Code. He submits that once applicant is acquitted under Section 338 of the Indian Penal Code, conviction under Section 279 of the Indian Penal Code does not survive as the ingredients of both the offences are the same.

2. Learned counsel Shri. Palnitkar for the applicant places reliance on the case of this Court in Criminal Application

No. 124 of 2011 (***Adwait Surendra Aatre Vs. The State of Maharashtra and others***). In view of this, arguable point is made out. Hence the order.

ORDER

1. Application is allowed.
2. Substantive sentence is suspended till the disposal of the revision.
3. Applicant be released on PR bond of Rs. 15,000/- with one solvent surety in the like amount. Bail in the trial Court.

. Parties to act upon authenticated copy this order.

[M. G. SEWLIKAR, J.]

ssp