

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

**CRIMINAL APPLICATION NO.1315 OF 2022
IN
CRIMINAL REVISION APPLICATION NO.131 OF 2022**

Ankush s/o. Suresh Khambat .. Applicant
Age. 31 years, Occ. Business,
R/o. Harsool (Sawangi),
Tq. & Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondent

Mr.S.J. Salunke h/f. Mr. S.S. Shinde, Advocate for the applicant.
Mr.V.M. Kagne, APP for the respondent/State.

**CORAM : SMT. VIBHA KANKANWADI, J.
RESERVED ON : 21.04.2022
PRONOUNCED ON : 04.05.2022**

ORDER :-

01. Heard both the sides. The learned Judicial Magistrate, First Class, Court No.6, Aurangabad convicted the applicant for the offence punishable under section 354 of the Indian Penal Code in RCC No.1289 of 2015 and the said conviction has been confirmed by dismissing the appeal filed by the present applicant bearing Criminal Appeal No.21 of 2020 by the learned

Additional Sessions Judge, Aurangabad on 28.03.2022. The applicant has been sentenced to suffer simple imprisonment for one year and to pay fine of Rs.2000/-, in default, to suffer simple imprisonment for 20 days. An amount of Rs.2000/- has been directed to be given to the informant as compensation under section 357 of the Cr.P.C.

02. If we consider the prosecution story, then it appears that present applicant was a friend of husband of the informant and alleged incident had taken place at about 10=30 p.m. on 22.04.2015. The sole testimony of the informant has been believed and it is observed that bare suggestions have been given in the cross-examination. However, the cross-examination is in-fact lengthy cross-examination and therefore the learned Advocate appearing for the revision applicant submits that there is no proper appreciation of evidence. It requires to be re-appreciated and it is to be seen as to whether the conviction can be sustained on the basis of sole evidence of the informant. The revision application has been admitted and therefore till its decision, the applicant deserves to be released on bail by suspending his sentence. Hence, following order :-

ORDER

- i) The applicant stands allowed.
- ii) The conviction and sentence awarded to applicant – Ankush s/o. Suresh Khambhat in RCC No.1289 of 2015 under section 354 of the Indian Penal Code by learned Judicial Magistrate, First Class, Court No.6, Aurangabad on 06.01.2020 and confirmed in Criminal Appeal No.21 of 2020 by learned Additional Sessions Judge, Aurangabad on 28.03.2022 stands suspended till hearing and conclusion of Criminal Revision Application No.131 of 2022.
- iii) The applicant – Ankush s/o. Suresh Khambhat be released on PR and SB of Rs.15,000/- (Rupees Fifteen Thousand).
- iv) The applicant shall not commit any criminal activity.
- v) The applicant to remain present before the learned Trial Judge once in six months, till final hearing and disposal of the appeal, starting from the date he tenders bail papers and thereafter the Trial Judge to fix dates for his subsequent appearances.
- vi) In case of two consecutive defaults on the part of the applicant to remain present before the Trial Court, the Trial Court to inform this Court about the same and in that case the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.
- vii) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]