

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

**CRIMINAL APPLICATION NO.2104 OF 2022
IN
CRIMINAL APPEAL NO. 467 OF 2022**

**TUKARAM MAROTI KENDRE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

....

Mr. G.G. Suryawanshi, Advocate for the Applicant
Mr. R.D. Sanap, APP for the Respondent/State

....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 07 SEPTEMBER 2022

PER COURT:-

. It is an application for suspension of sentence and bail moved by the applicant/appellant (original accused No.1) . This court has issued notice to respondent No.2/victim. The notice is returned unserved for want of time.

2. It is pointed out by Mr. Suryawanshi, learned counsel for the applicant that the present applicant/appellant (original accused No.1) came to be acquitted for the offence punishable under Section 376 of the Indian Penal Code, and he was convicted only under Sections 323 and 506 Part II of

the Indian Penal Code, and sentenced to suffer simple imprisonment for three months and pay fine of Rs.1,000/- with default stipulation, and similar quantum of sentence under Section 506 Part II of the Indian Penal Code. He submitted that by looking to the small volume of sentence awarded against the appellant, his conviction may be suspended, and he may be released on bail and there is no need to wait for service of notice to respondent No.2.

3. Mr. Sanap, learned APP for respondent No.1/State opposed to grant bail by suspending the sentence.

4. It is revealed during the course of argument that the appellant was on bail during the trial. After the conviction, he was released on bail by the trial court by suspending the sentence. There are no extraordinary circumstance to keep the appellants behind the bars. He has deposited the entire fine amount of Rs.25,000/- with the trial court. He has been acquitted for the serious offence punishable under Section 376 of the Indian Penal Code. By considering this fact, there is no need to wait for service of notice to respondent No.2. In the result, following order is passed:-

ORDER

- (i) The criminal application is hereby allowed.
- (ii) The execution of substantive sentence passed against the applicant/appellant (original accused No.1) in Sessions Case No. 11 of 2017 by the Additional Sessions Judge-2, Udgir is hereby suspended till final disposal of the appeal.
- (iii) The applicant/appellant (original accused No.1) shall be released on bail on his furnishing P.R. bond of Rs.20,000/- (Rupees Five Thousand only) with one or two solvent sureties of the like amount on following conditions :-
- (a) He shall furnish his in detail address with Cell Number with the trial court
 - (b) Bail before the trial court.
- (iv) The criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane