

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

**41 CRIMINAL APPLICATION NO.3031 OF 2022
IN APEAL/329/2022 WITH APEAL/329/2022**

**ANUPAMA VASANTRAO GANGAKHEDKAR @ ANUPAMA W/O
MUKUND BAKSHI
VERSUS
THE STATE OF MAHARASHTRA**

Mr. Rajendra P. Phatke, Advocate for the applicant
Ms. Mayuri Kasturkar, Advocate for respondent No.2
Mr. S. W. Munde, APP for the respondent/State

CORAM : KISHORE C. SANT, J.

DATE : 28th November, 2022

P. C.

1. Heard the learned advocate for the applicant.
2. This is an application seeking stay to the conviction recorded by the learned Additional Sessions Judge, Aurangabad in Sessions Case No. 66/2016. The applicant is held guilty of the offences punishable under Sections 3 (1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Sections 504 and 506 of the Indian Penal Code. It is submitted that the appeal is admitted and is pending for final

hearing and sentence is already suspended by the order dated 28-04-2022. Considering short sentence and considering that now the applicant is compulsorily retired by holding departmental enquiry by order dated 27-04-2022, it is submitted that now the applicant has to file departmental appeal and it is reported that since this court has not granted stay to the conviction she is being compulsory retired and therefore, now the applicant wants to take a ground in the departmental appeal and for that reason she requires the order of stay to the conviction. The learned advocate relied upon the judgment in the case of Shyam Narain Pandey Vs State of Uttar Pradesh reported in (2014) (8) SCC 909 and invited my attention to paragraph Nos. 5 and 6 of the said judgment wherein it is held that stay of conviction can be granted only in exceptional circumstances, though sentence may be suspended but only after recording reasons therefor. No hard-and-fast rule or guidelines can be laid down as to what those exceptional circumstances are where stay of conviction can be granted. The court should be wary in staying conviction especially where offence alleged

against convict is punishable with death or life imprisonment or for a period of not less than 10 yrs, or where offence involves moral turpitude. If conviction is stayed in such cases, it would have serious impact on public perception on integrity of judicial institution and would shake public confidence in judiciary. It is only in rare and exceptional cases of irreparable injury coupled with irreversible consequences resulting in injustice, when stay of conviction may be granted. It is submitted that in this case also this is an exceptional case of irreparable injuries coupled with irreversible consequences resulting in injustice. In his submission now the applicant is compulsory retired because of this conviction.

3. Considering the argument this court does not find any exceptional case is made out. So far as the order is concerned, there is always remedy of appeal against such order. Merely because the applicant needs to file departmental appeal there is no reason to stay the conviction. Hence, the application is dismissed and disposed off accordingly.

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4. Ms. Mayuri Kasturkar, learned advocate appointed through Legal Aid is entitled to get fees as per rules.

[KISHORE C. SANT, J.]

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