

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

**CRIMINAL APPLICATION NO.2693 OF 2019 IN  
CRIMINAL APPEAL NO.71 OF 2019**

Devidas s/o Shankar Kale

**... APPLICANT**

**VERSUS**

The State of Maharashtra & anr.

**... RESPONDENTS**

.....

Mr. Z.H. Farooqui, Advocate holding for  
Mr. N.V. Gaware, Advocate for applicant  
Mr. R.B. Bagul, A.P.P. for respondent – State  
Mr. Pankaj A. Bharat, Advocate for respondent No.2.

.....

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

**DATE : 22nd DECEMBER, 2022.**

**PER COURT :**

By this application, the applicant is seeking suspension of substantive sentence imposed against him by learned Additional Sessions Judge, Ahmednagar by judgment and order dated 10/1/2019 in Special Case No.41/2018.

2. Learned counsel for the applicant states that, there is no possibility of present appeal being taken up for hearing in near future and hence, the appeal will get frustrated if the appellant undergoes the entire sentence awarded to him.

3. The learned A.P.P. and learned counsel for respondent No.2 – victim opposed the said contention, citing the nature of injury caused by the appellant on the victim.

4. The appellant is sentenced to short term sentence and the appeal is not likely to see the light of the day in near future. We find substance in the contention of the learned counsel for the appellant that the appeal might become infructuous if not being taken up during the period of entire sentence awarded to the appellant. In the circumstances, by imposing certain conditions, we are inclined to suspend the substantive sentence of imprisonment imposed against the appellant. Hence the order :

### **ORDER**

(i) The Criminal Application is allowed.

(ii) Pending the appeal, the substantive sentence of imprisonment imposed against the present applicant by learned Additional Sessions Judge, Ahmednagar by judgment and order dated 10/1/2019 in Special Case No.41/2018 to stand suspended and the applicant be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(iii) The applicant shall not enter the limits of Pathardi Taluka till the decision of the Criminal Appeal. The applicant shall give the address of his residence to the Pathardi Police Station and shall attend the concerned Police Station, once a month i.e. on first of every month between 9.00 a.m. and 11.00 a.m. till the decision of the Criminal Appeal.

**( R.M. JOSHI, J. )**

**( R. G. AVACHAT, J. )**

fmp/-