

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 391 OF 2022
IN
CRIMINAL APPEAL NO. 202 OF 2019**

Shaukatali Abdulsalem Shaikh	...Applicant/ Appellant
Versus	
The State Of Maharashtra	...Respondent

....

Mr. Parth Kishor Sanghrajka, Advocate for the Applicant/
Appellant.

Mr. Arfan Sait, APP for the Respondent – State.

CORAM	:	PRAKASH D. NAIK, J.
DATE	:	22nd FEBRUARY, 2022.

PER COURT:

1. This is an application for suspension of sentence and grant of bail pending in Criminal Appeal No.202 of 2019.
2. The applicant has been convicted for offences under Sections 392, 397 r/w Section 34 of Indian Penal Code (for short “IPC”) and he has been sentenced to suffer rigorous imprisonment for Seven years.
3. The first application preferred by the applicant was rejected by order dated 28th February, 2019. Thereafter, another application was preferred for suspension of sentence which has been disposed of by order dated 20th September, 2019, by permitting the applicant to withdraw the said

application with liberty to move similar application after six months if the appeal is not taken up for final hearing. Thereafter, another application was preferred for similar prayer which was allowed to be withdrawn with liberty to prefer application for suspension of sentence after the applicant completed half of the sentence awarded by the trial Court.

4. Learned counsel for the applicant submitted that, in view of liberty granted to the applicant, he has preferred this application for suspension of sentence. The applicant has completed half of sentence imposed by the trial Court. The appeal may not come up for hearing immediately.

5. Learned APP submitted that the applicant is involved in another case which has resulted in conviction for offence under Section 397 r/w Section 34 of IPC. Thus, the applicant has been convicted in 2 cases. The sentences of imprisonment may not be suspended.

6. Learned counsel for the applicant in rejoinder submitted that, in the other case the applicant has preferred appeal challenging the judgment of conviction. The appeal has been admitted and sentence of imprisonment was suspended and the applicant has been granted bail. It is pertinent to note that from the tenor of order dated 21st

January, 2013, suspending sentence of imprisonment and grant of bail in Criminal Appeal No.21 of 2013 it appears that it was not brought to the notice of this Court that the applicant is convicted in another case. The applicant has been convicted in the present case vide judgment and order dated 17th January, 2019. It also appears that while the previous order passed by this Court it was not brought to the notice of this Court that the applicant is convicted in another case.

7. In these circumstances, no case for suspension of sentence is made out. However, considering the fact that the applicant is in custody for a period of about three years and six months, the hearing of appeal is expedited.

8. Criminal Appeal No.202 of 2019 be added to the final hearing board in the week commencing from 14th March, 2022.

9. Interim Application stands disposed off accordingly.

(PRAKASH D. NAIK, J.)