

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1132 OF 2022
IN
CRIMINAL APPEAL NO. 350 OF 2022**

Rakesh Babulal Shaha ...Applicant/Appellant

Versus

The State Of Maharashtra And Anr. ...Respondents

....

Mr. Aabad H. Ponda, Senior Advocate i/b, Mr. Bhomesh R.
Bellam for the Applicant/Appellant

Mr. P. H. Gaikwad, APP for the State.

**CORAM : PRAKASH D. NAIK, J.
DATE : 7th APRIL, 2022**

PER COURT:

1. Admit.
2. Interim Application no. 1132 of 2022 is for suspension of sentence and grant of bail during the pendency of Criminal Appeal No. 350 of 2022.

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3. The applicant is convicted for the offence under Section 406 of Indian Penal Code and sentenced to suffer imprisonment of three years and fine of Rs. 10000/-. He has been acquitted for offence punishable under Section 376 of IPC.

4. The applicant was on bail during the trial. On the date of conviction, sentence has been suspended by the trial court. The execution of substantive sentence has been stayed for a period of one month subject to deposit of fine of Rs.10,000. Time was granted to furnish surety till 9th April,2022 and till then accused was released on executing PR Bond of Rs. 20,000/-

5. The learned counsel for the applicant submits that the applicant has deposited fine of Rs.10,000/- and he has also executed PR Bond in accordance with the aforesaid order. The applicant is present in the Court.

6. The applicant has urged several ground on merits. Although he was charged for offences under Section 376 and 406 of the IPC he had been acquitted for offence under Section 376 of the IPC and convicted under section

406 of the IPC. The PR bond has been accepted pursuant to the order of suspension of sentence by the trial court. Considering the aforesaid circumstances this application can be allowed :

ORDER

- i.** Interim Application No.1132 of 2022 is allowed;
- ii.** During the pendency of Criminal Appeal No.350 of 2022, the sentence of imprisonment imposed vide Judgment and order dated 9th March, 2022 passed by learned Additional Sessions Judge, City Civil & Sessions Court, Greater Bombay in Sessions Case No. 263 of 2014 is suspended and the applicant is directed to be released on same bail as in the trial Court with fresh bond.
- iii.** The applicant shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;
- iv.** In the event, there are two consecutive defaults in attending the trial Court, the said fact may be brought to the notice of this Court and in such

eventuality, the prosecution will be at liberty to prefer an application for cancellation of bail.

v. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)