

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

INTERIM APPLICATION NO. 2860 OF 2022
IN
CRIMINAL REVISION APPLICATION NO. 341 OF 2022

Amit Primush Ikka ...Applicant
Versus
Administration Of Dadra And Nagar
Haveli And Anr. ...Respondents

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Mr. Ratnash Dubey, Advocate for the Applicant.

Mr. Aayush Kedia i/by H.S. Venegavkar, Special P. P. for respondent No.1.

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

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CORAM : PRAKASH D. NAIK, J.
DATE : 15th SEPTEMBER, 2022.

PER COURT:

1. This is an application for suspension of sentence and grant of bail during the pendency of the revision application preferred by the applicant challenging the judgment of conviction passed by the trial Court as well as by the appellate Court.

2. The applicant has been convicted for the offence punishable under Section 326 of Indian Penal Code vide judgment and order dated 03.02.2020 passed by the learned Metropolitan Magistrate, Dadra Nagar Haveli Silvassa and sentenced to suffer imprisonment for 3 years and to pay fine of Rs.5,000/-. The judgment of the trial

Court was challenged by the applicant before the Sessions Court by preferring Criminal Appeal No.4 of 2020 which has been dismissed vide judgment and order dated 8th August, 2022 and the judgment of the trial Court has been thereby confirmed.

3. Learned Advocate for the applicant submitted that the sentence of imprisonment is of three years. It is short sentence. In the event, the sentence is not suspended, the revision application would become infructuous. The applicant was on bail during the pendency of appeal as well as there was delay in registering the First Information Report (for short 'FIR'). There are several infirmities in the evidence recorded by the trial Court. The applicant has been taken in custody on 8th August, 2022 and since then he is undergoing sentence. The applicant has good case on merits.

4. The learned Advocate for Respondent No.1 submits that the revisional power are required to be exercised in revisional cases. There are no infirmities in the judgment. The appellate Court as well as trial Court has dealt with the issue of delay in lodging the FIR. There was no delay in lodging FIR. It was not fatal. There is sufficient evidence against the applicant to convict him for the said offence. Hence, the sentence may not be suspended. It is noted

that the sentence of imprisonment is of three years. The applicant was on bail during trial as well as during the pendency of appeal before the Sessions Court. The revision application has been admitted. The record and proceedings are called for which are to be examined at the appropriate stage. The revisional Court has power to set aside the judgment of conviction and also to suspend the sentence in accordance with Section 401 of Code of Criminal Procedure. The powers which are assigned to the appellate Court are also given to the revisional Court under Section 201 of Cr.P.C. In these circumstances, sentence can be suspended and the applicant can be granted bail.

ORDER

- i. Interim Application No. 2860 of 2022 is allowed;
- ii. The sentence of imprisonment imposed vide Judgment and order dated 03.02.2020 passed by learned JMFC, Dadra & Nagar Haveli Silvassa in RCC No.134 of 2016 and confirmed vide judgment and order dated 08.08.2022 passed by learned Sessions Judge, Dadra & Nagar Haveli, Silvassa in Criminal Appeal No.04 of 2020, dismissing the appeal is suspended and the applicant is directed to be released on bail on executing PR. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

- iii. The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for a period of eight weeks in lieu of surety.
- iv. The applicant shall appear before the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;
- v. Interim Application is disposed off accordingly.

(PRAKASH D. NAIK, J.)