

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.41 OF 2023
IN REVNST/65/2023

BALAJI VITHAL KOLHEWAD
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shivaji Bhimrao Bhapkar
Mr. Pravin B Rakhunde
APP for Respondent : Mr. S. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 04-01-2023

PER COURT :-

1. Heard learned counsel for the applicant.
2. Issue notice to the respondent.
3. Learned A.P.P. waives service of notice for respondent/State.
4. Learned counsel for the applicant submits that the applicant has been convicted for the offence punishable under Section 85(1) of the Bombay Prohibition Act, 1949 and sentenced to suffer rigorous imprisonment for one month and fine of Rs.1000/-. The fine amount has been deposited. The appeal preferred by the applicant has also been dismissed and judgment and order of sentence has been confirmed. The applicant has been languishing in jail since 21.12.2022. He further argued that the applicant has a good case on merit. There are arguable points. Hence, sentence may be suspended.

5. The learned A.P.P. opposed the application and argued that two concurrent judgments are well reasoned. There are no grounds to interfere with the same.

6. Perused the impugned orders. The applicant appears to have grounds to argue the matter. Hence, the sentence is liable to be suspended till the decision of the revision. Hence, the following order :-

- i) The application is allowed.
- ii) The sentence to suffer rigorous imprisonment for one month passed by the learned Judicial Magistrate First Class, Umri, in S.C.C.135 of 2015, dated 16.10.2018 and confirmed by the learned Additional Sessions Judge, Bhokar, in Criminal Appeal No.14 of 2018, by his judgment and order dated 22.08.2022, is suspended till the disposal of the revision.
- iii) The applicant be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of like amount.
- iv) Bail before the appellate Court.

**(S. G. MEHARE)
JUDGE**

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