

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 520 OF 2023 IN
CRIMINAL REVISION APPLICATION NO.29 OF 2023

MAHESH AMBADAS DALIMBKAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Santosh S. Jadhavar
APP for Respondent : Mr. S. P. Sonpawale

CORAM : S. G. MEHARE, J.

DATE : 03-02-2023

PER COURT :-

1. Heard the learned counsel for the applicant.
2. Issue notice to the respondent, returnable on 08.03.2023.
3. The learned A.P.P. waives service of notice for respondent/State.
4. The applicant was convicted by the learned Judicial Magistrate First Class, Shevgaon, in RCC No.225 of 2015, for the offence punishable under Section 354 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and under Section 506 of the I.P.C. sentenced to suffer rigorous imprisonment for three months. The applicant had challenged judgment and order of the learned Judicial Magistrate before the learned Additional Sessions Judge, Ahmednagar, in Criminal Appeal No.188 of 2018.
5. The learned counsel for the applicant would submit that on the day of the judgment, the learned Additional Sessions Judge,

Ahmednagar, took the applicant in custody. The applicant has good case on merit. There is error of law in not appreciating evidence in proper prospective. The applicant never misused bail granted to him during the trial as well as during pendency of the appeal. Hence, sentence may be suspended.

6. The learned A.P.P. opposed the application. He would argue that there are no grounds to argue for the applicant. The evidence has been properly appreciated. The offence is against a woman. Hence, the sentence may not be suspended.

7. Perused both the judgments and orders. The applicant appears to have ground to contest in the revision application. There was no report of misusing the liberty granted to him during the trial as well as in appeal. The sentence is liable to be suspended till the decision of the revision. Hence, the order :-

- i) The application is allowed.
- ii) The execution of sentence imposed against the applicant by the learned Judicial Magistrate First Class, Shevgaon, in RCC No.225 of 2015, dated 27.07.2018 and confirmed by the learned Additional Sessions Judge, Ahmednagar, in Criminal Appeal No.188 of 2018, dated 31.01.2023, is suspended till 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 the like amount.
- iv) Bail before the appellate Court.

(S. G. MEHARE, J.)