

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.640 OF 2023
IN REVN/40/2023 WITH REVN/40/2023

VAIBHAV @ TAKALYA GOPAL GAVALI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. J. V. Patil
APP for Respondent No.1 : Mr. S. P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 13-02-2023

PER COURT :-

1. Heard the learned counsel for the applicant.
2. Issue notice to the respondents, returnable on 09.03.2023.
3. The learned A.P.P. waives service of notice for respondent No.1/State.
4. The applicant/original accused No.2 has been convicted for the offence punishable under Sections 392 and 323 read with Section 34 of the Indian Penal Code, by the learned Judicial Magistrate First Class, Chopda, District Jalgaon, vide judgment and order in R.C.C.No. 154 of 2017, dated 12.02.2018. In appeal, the learned District Judge-2, Amalner, convicted the accused for the punishable under Section 385 read with Section 34 only of the Indian Penal Code. On the date of pronouncement of judgment and order dated 30.01.2023, the learned District Judge-2, Amalner, send the accused to jail. Since then, the accused is behind bar.

5. The learned counsel for the applicant would argue that the applicant has a good case on merit. The legal issue has been involved in this case.

6. The learned A.P.P. opposed the application contending that the judgment and order of the learned Additional District Judge-2, Amalner, is legal, proper and correct. The applicant/accused has no any ground to raise in the revision. Hence, the sentence of imprisonment may not be suspended.

7. Perused the impugned order. The applicant appears to have good ground for arguments. Hence, the sentence imposed deserve to be suspended. Hence, the following order:-

- i) The application is allowed.
- ii) The execution of the sentence of imprisonment imposed by the learned District Judge-2, Amalner, in Criminal Appeal No.6 of 2018, dated 30.01.2023, is suspended till the conclusion of the revision application.
- ii) The applicant be released on bail on executing P.B. and S.B. of Rs.50,000/- with one solvent surety of the like amount.
- iii) Bail before the learned District Judge-2, Amalner.

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