

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.674 OF 2023
IN REVN/44/2023**

**SHESHERAO S/O DAMODHAR WADATE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Dhananjay A Naik
APP for Respondent/State : Mr. S.P. Sonpawale

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CORAM : S.G. MEHARE, J.

DATED : FEBRUARY 15, 2023

PER COURT:-

1. The applicant has been convicted for the offence punishable under Section 279, 304-A, 337 and 338 of the Indian Penal Code by the learned Judicial Magistrate First Class, Patoda. However, the learned Sessions Judge acquitted the applicant for the offence punishable under Section 338 of the Indian Penal Code and confirmed the remaining sentence imposed by the learned Magistrate.

2. Learned counsel for the applicant would submit that the learned Sessions Judge took the applicant in custody and sent him to jail under conviction warrant. The applicant has a good case on merit. The material legal aspects have not been considered. The applicant never misused the liberty granted to him by way of bail during trial and the appeal. Hence, the sentence may be suspended till disposal of the revision.

3. Learned APP has strongly opposed the application. He would submit that the law has been correctly applied. The applicant has no ground to argue before this Court in the revision. Hence, sentence may not be suspended.

4. Perused the impugned judgments and orders. There appears ground available to the applicant to argue in revision. Hence, the corporal sentence is liable to be suspended. Therefore, the following order :

ORDER

(i) Criminal Application is allowed.

(ii) The implementation and execution of the sentence imposed by the learned Judicial Magistrate First Class, Patoda in SCC No.107 of 2010 convicting the accused for the offence punishable under Section 279, 304-A, 337 of the Indian Penal Code and confirmed by the learned Sessions Judge, Beed in Criminal Appeal No.66 of 2018, is suspended till conclusion of the revision.

(iii) The applicant shall be released on bail on executing P.B. and S.B. of Rs.50,000/- with one solvent surety of the like amount.

(iv) Bail before the learned Sessions Judge, Beed.

(v) Issue notice to the State. Learned APP waives notice for the respondent-State.

(3)

(vi) Call Record and Proceedings.

(viii) List the criminal revision application on 12.04.2023.

(S.G. MEHARE, J.)

Mujaheed//