

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

**CRIMINAL APPLICATION NO.823 OF 2023
IN REVN/59/2023**

**BHAUSAHEB NANASAHEB VIRKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH KOTWALI POLICE
STATION, AHMEDNAGAR**

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Advocate for Applicant : Mr. Pratap Vikhe Patil h/f Mr. S.J. Salunke

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CORAM : S.G. MEHARE, J.

DATED : MARCH 01, 2023

PER COURT:-

1. Learned counsel for the applicant submits that the applicant has been convicted for the offence punishable under Section 279, 337, 338 of the Indian Penal Code and sentenced to suffer imprisonment. His appeal has also been dismissed. He has been sent to jail under the conviction warrant. The applicant has a good case on merit. The law has not been properly appreciated. Therefore, there is a prima facie error on the face of the record by both Courts. The fine amount has already been deposited. The applicant never misused the bail. Hence, the sentence may be suspended.

2. Learned APP has opposed the application contending that the applicant has no good case for arguments.

3. There appears substance in the argument of the learned counsel for the applicant. This case appears to exercise the discretion

under Section 389 of the Criminal Procedure Code. Hence, the following order :

ORDER

- (i) The application is allowed.
- (ii) The execution of the sentence to suffer SI for six months for the offence punishable under Section 279 and 337 of the Indian Penal Code and SI for one year for the offence punishable under Section 338 of the Indian Penal Code passed by the learned Judicial Magistrate First Class, Court No.3, Ahmednagar in SCC No.1855 of 2014 by orders dated 23.01.2018 and confirmed by the learned Additional Sessions Judge, Ahmednagar in Criminal Appeal No.35 of 2018 dated 10.02.2023, is suspended till conclusion of the revision application.
- (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 Additional Sessions Judge, Ahmednagar.
- (v) Issue notice to the respondent, returnable on 10.04.2023.
- (vi) Call Record and Proceedings.

(S.G. MEHARE, J.)