

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

**CRIMINAL APPLICATION NO. 952 OF 2023
OF
CRIMINAL APPEAL NO. 199 OF 2023**

Bhausahab Bhanudas Jadhav

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr. Satej S. Jadhav, Advocate for the Applicant.

Mr. S. R. Yadav-Lonikar, APP for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 24th MARCH, 2023.

P. C. :-

. The applicant has preferred an appeal challenging the judgment and order dated 28.12.2022 passed by the learned Additional Sessions Judge, Shrigonda in Sessions Case No. 151/2019. He is held guilty for the offences punishable under Section 506 of the Indian Penal Code (for short "I.P.C.") and Section 85 (1) of the Bombay Prohibition Act, 1949. However, he is acquitted from the offence punishable under Section 307 of the I.P.C. For the offence punishable under Section 506 of the I.P.C. he is sentenced to suffer rigorous imprisonment for one (01) year and to pay fine of Rs. 1,000/- (Rs. One Thousand only) and in default to suffer simple imprisonment for one (01) month. For the

offence punishable under Section 85 (1) of the Bombay Prohibition Act, he is sentenced to suffer rigorous imprisonment for three (03) months and to pay fine of Rs. 5,000/- (Rs. Five Thousand only) and in default to suffer simple imprisonment for one (01) month.

2. Learned advocate for the applicant submits that, during the trial the applicant was on bail. He has paid the fine amount on the date of judgment itself. The learned Trial Judge was pleased to suspend the sentence till the appeal period is over.

3. This Court has made specific query since the judgment is of 28.12.2022, as to whether the applicant has surrendered. It is informed that, he was in army force and he has received injury and therefore could not surrender after the appeal period. This Court therefore finds that, a case is made out to suspend the sentence and since he is not yet surrendered, this Court finds it appropriate to allow the application subject to condition that the applicant shall surrender first and then order shall come into force. In view of the said, I pass the following order.

4. The criminal application is allowed.

5. The substantive sentence as awarded by the learned Additional Sessions Judge, Shrigonda by the judgment and order dated

28.12.2022 for the offences punishable under Section 506 of the I.P.C. and Section 85 (1) of the Bombay Prohibition Act shall stand suspended.

6. The applicant be released on bail after he is surrendered. The applicant to furnish fresh bail and bond in the sum of Rs. 15,000/- (Rs. Fifteen Thousand only) with one solvent surety.

7. After he is released on bail, the sentence shall be suspended till the appeal is pending in this Court.

8. With this, the criminal application stands disposed off.

(KISHORE C. SANT, J.)

PS.B.