

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

**CRIMINAL APPLICATION NO. 1025 OF 2020
IN
CRIMINAL APPEAL NO. 581 OF 2019**

Kiran Babasaheb Waghmare

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. S.J. Salunke, Advocate for applicant

Mr. A.A. Jagatkar, A.P.P. for respondent - State

....

CORAM : R.G. AVACHAT, J.

DATE : 20th APRIL, 2023

PER COURT :

1. Heard.

2. Issue notice to the respondent. Learned A.P.P. waives service of notice for the respondent – State.

3. The applicant has been convicted for the offences punishable under Sections 304, 307, 323 read with Section 34 and 506 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for maximum ten years and to pay fine of Rs.5,000/- in total, with default stipulation.

4. This application has been moved for suspension of substantive sentence of imprisonment. Earlier such application has been turned down in

November 2019. The appeal is of 2019. The applicant herein has been in jail for little over four years and one month as against sentence of ten years of rigorous imprisonment. The fine amount has been deposited.

5. Learned A.P.P. submits that there are pretty old criminal appeals awaiting their turn and therefore, this appeal cannot be given precedence over those appeals. He further submits that when the applicant was released on parole, he committed an offence of rape. He adverts attention of this Court to the F.I.R. lodged by the victim of that crime.

6. Least said better in the interest of both, the prosecution and the applicant. Suffice it to say that in view of the fact that the applicant has served out a sentence of little over four years and one month as against sentence of ten years rigorous imprisonment and according to learned A.P.P. there are pretty old appeals awaiting their turn, application is allowed. The execution of substantive sentence of imprisonment to stand suspended, pending the appeal. The applicant be released on his executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount. The applicant shall not enter village Deodhanora, Tq. Kalamb, Dist. Osmanabad for next two years.

(R.G. AVACHAT, J.)

SSD