

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1405 OF 2023
IN REVN/119/2023

BABAN UTTAM KANDARE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Dhananjay M. Shinde
APP for Respondent : Mr. S. P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 10-04-2023

PER COURT :-

1. Heard the learned counsel for the applicant.
2. Issue notice to the respondent. The learned A.P.P. waives service of notice for the respondent/State.
3. The applicant has been convicted for the offence punishable under Section 354A and 294 read with Section 34 of the Indian Penal Code and his conviction was confirmed by the learned Additional Sessions Judge, Nanded.
4. The learned counsel for the applicant would submit that the ingredients of Section 354A of the Indian Penal Code were not proved but both Courts misread the evidence. Hence, the applicant has a good case on merit. There were no complaints of misusing of bail granted to him. Hence, the sentence may be suspended.

5. The learned A.P.P. would oppose the application and submit that there are judgments and orders against the applicant. The offence is against a woman. Therefore, the sentence may not be suspended.

6. Perused the judgments and orders of the trial court and the subordinate appellate court. There appears ground to argue before this Court in the revision. There are no complaints against the applicant that he has misused the bail granted to him. In the facts and circumstances of the case, the sentence is liable to be suspended. Hence, the following order:-

- i) Application is allowed.
- ii) The execution of sentence to suffer rigorous imprisonment for two years for the offence punishable under Section 354A of the Indian Penal Code and to suffer rigorous imprisonment for three months for the offence punishable under Section 294 of the Indian Penal Code imposed by the learned 2nd Jt. Judicial Magistrate First Class, Nanded, in RCC No.379 of 2014, dated 26.03.2019 and confirmed by the learned Sessions Judge, Nanded, in Criminal Appeal No.27 of 2016, dated 28.03.2023, is suspended till conclusion of the revision.
- iii) Applicant Baban Uttam Kandare be released on bail on executing P.B. and S.B. of Rs.50,000/- with one solvent surety in the like amount.
- iv) Bail before the learned Sessions Judge, Nanded.

(S. G. MEHARE, J.)