

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

**CRIMINAL APPLICATION NO.1885 OF 2023
IN
CRIMINAL APPEAL NO.442 OF 2023**

**RAMESH SAMPAT GANGARDE
VERSUS
THE STATE OF MAHARASHTRA**

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Mr. Abasaheb D. Shinde, Advocate for the applicant
Mr. A.V. Deshmukh, APP for the respondent – State

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**CORAM : S.G. CHAPALGAONKAR, J.
(VACATION COURT)**

DATE : 17th MAY, 2023

PER COURT :

. This is an application for suspension of substantive sentence and grant of bail during the pendency of the Criminal Appeal No.442 of 2023, challenging the judgment and order dated 28th April, 2023 passed by the Additional Sessions Judge, Shrigonda in Sessions Case No.50 of 2020.

2. Mr. Shinde, the learned advocate for the applicant would submit that vide the impugned judgment and order the applicant is convicted for the offence punishable under Section 326 of Indian Penal Code (in short, 'IPC') and sentenced to undergo rigorous imprisonment for five years and to pay fine of Rs.3,000/- in default of fine to suffer simple imprisonment for six months.

3. Mr. Shinde would submit that the applicant has already deposited the fine amount. He would further point out that the applicant was on bail during the pendency of the trial and he has not misused the liberty. He would further submit that considering the sentence imposed by the trial Court and the grounds stated in the appeal memo, the appellant-applicant deserves to be released on bail pending the appeal before this Court.

4. The learned APP appearing for the respondent – State opposes the prayer stating that the conviction is supported by reasons and the evidence has been elaborately discussed by the trial Court. As such, there is no case for grant of bail.

5. Having considered the submissions advanced by the learned advocate appearing for respective parties, it would be appropriate to release the applicant on bail during the pendency of the appeal since he has been sentenced to undergo rigorous imprisonment for five years and considering pendency of the appeals, it is difficult to take up the present appeal for final hearing in the near future. Further, the applicant was on bail during pendency of the trial. In this view of the matter, the application is allowed in terms of

prayer clause 'B', which reads thus:

“(B) Pending hearing and final disposal of the Criminal Appeal, the applicant may kindly be enlarged on bail by suspending the sentence of punishment in pursuance to the judgment and order dt 28.4.2023 passed by the Ld. Additional Sessions Judge, Shrigonda in Sessions Case no. 50 of 2020 thereby convicting the applicant for offence u/sec.326 of Indian Penal Code and directing to undergo sentence of Rigorous Imprisonment for 5 years and to pay fine of Rs.3000/- in default of which further directing to undergo simple imprisonment for six months for that purpose issue necessary orders.”

The substantive sentence imposed on the applicant vide order dated 28th April, 2023 passed by the Additional Sessions Judge, Shrigonda in Sessions Case No.50 of 2020 is suspended pending the appeal. Meanwhile, the applicant be released on bail on his furnishing PR Bond of Rs.25,000/- with one solvent surety in the like amount, pending the appeal. The applicant shall attend the proceedings of appeal regularly. Bail before the learned trial Court.

(S.G. CHAPALGAONKAR)
VACATION JUDGE