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

**CRIMINAL APPLICATION NO.2145 OF 2023
IN REVN/176/2023 WITH REVN/176/2023**

**JAIRAM MARIBA KHANDELOTE
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicants : Mr. Chudiwal Niraj Pradeep
APP for Respondent/State : Ms. V.N. Patil Jadhav

...

CORAM : S.G. MEHARE, J.

DATED : JUNE 20, 2023

PER COURT:-

1. Heard the respective counsels.
2. The applicant is praying for suspension of sentence imposed by the learned Judicial Magistrate First Class, Dharmabad to suffer SI for three months each for the offences punishable under Sections 279, 337 and to suffer SI for one year for the offence punishable under Section 304-A of the Indian Penal Code in S.C.C. No.174 of 2014 dated 26.04.2016 and confirmed by the learned Additional Sessions Judge, Biloli on 31.05.2023 in Criminal Appeal No.17 of 2016.
3. The applicant has been taken into custody and sent to jail under conviction warrant. Learned counsel for the applicant would submit that the applicant has good case on merit. The legal aspect of rash and negligent driving has not been considered. The applicant had no antecedents. There was no sufficient evidence to hold the

applicant guilty. The applicant has good case on merit and arguable points in the revision application.

4. Per contra, the learned APP has strongly opposed the application. He would submit that there are two concurrent judgments of conviction against the applicant. The sections applied against the applicant has been properly considered. There is no scope to interfere with the impugned judgments and orders. Hence, the applicant does not deserve suspension of sentence.

5. Perused the impugned orders and judgments. There appears substance in the argument of the learned counsel for the applicant. The applicant deserves suspension of sentence. Hence, the following order :

ORDER

- (i) Criminal Application is allowed.
- (ii) The execution, implementation, effect and operation of the judgments of conviction sentencing the applicant to suffer SI for three months each for the offence punishable under 279, 337 and SI for one year for the offence punishable under Section 304-A of the Indian Penal Code imposed by the learned Judicial Magistrate First Class, Dharmabad in S.C.C. No.174 of 2014 dated 26.04.2016 and confirmed by the learned Additional Sessions Judge, Biloli in Criminal Appeal No.17 of 2016 by its

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order dated 31.05.2023 is suspended till the decision of the revision application on merit.

(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) Issue notice to the State, returnable on 04.08.2023.

Learned APP waives service of notice for the State.

(v) Bail before the learned Additional Sessions Judge, Biloli.

(vi) Call Record and Proceedings.

(S.G. MEHARE, J.)