

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

**962 CRIMINAL APPLICATION NO.2768 OF 2023
IN REVN/218/2023 WITH REVN/218/2023**

**SURESH WAMANRAO GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. S. R. Bagal h/f Mr. Gadegaonkar
Bharat N.

APP for Respondent-State : Mr. S. P. Deshmukh.

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**CORAM : S. G. MEHARE, J.
DATE : 11.08.2023**

PER COURT :-

1. Heard the learned counsel for the applicant and learned APP for the respondent-State.
2. The applicant seeks suspension of sentence imposed upon him by the learned Trial Court and confirmed by the learned Appellate Court.
3. Learned counsel for the applicant would submit that the applicant has been convicted for a short term imprisonment. He has good case on merit. Whether the offence alleged against him constitute or not is to be considered. There were

no antecedents against the applicant. Hence, his sentence may be suspended.

4. Learned APP has strongly opposed the application. He would submit that offence against the applicant was serious in nature. Considering the nature of allegation, the term of imprisonment may not be the ground to consider the request for suspension of sentence. Hence, suspension may not be granted.

5. Perused the impugned judgments and orders. There appears scope for hearing the criminal revision application on legal issues. The sentence was for a short term. Therefore, the discretion under Section 389 of the Cr.PC. may be exercised in this case. Hence, the following order :

ORDER

- (i) Criminal Application is allowed.
- (ii) The execution, implementation, effect and operation of the sentence imposed upon the applicant by the learned 2nd Adhoc Assistant Sessions Judge, Nanded, in Sessions Case No.29 of 2014 by the judgment and order dated 30.01.2016

and confirmed by the learned Sessions Judge, Nanded in Criminal Appeal No.13 of 2016, dated 13.06.2023 has been suspended till the conclusion of the criminal revision application.

- (iii) The applicant be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount.
- (iv) Bail before the learned Sessions Judge, Nanded.
- (v) Call Record and Proceedings.
- (vi) The applicant shall be released only after depositing the fine, if not deposited.
- (vii) Stand over to 07.10.2023.

(S. G. MEHARE, J.)

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vmk/-