

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

**CRIMINAL APPLICATION NO.2885 OF 2023
IN APEAL/704/2023 WITH APEAL/704/2023**

**KAUTIK DEORAO DANDGE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicants : Mr. J. V. Deshpande
APP for Respondent: Mr. S. B. Narwade

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CORAM : S. G. MEHARE, J.

DATE : 11.08.2023

PER COURT :

1. It was a State case. Since the compensation was granted to the victim is not a necessary party to the appeal. Hence, respondent No.2 be deleted. Necessary amendment be carried out forthwith.

2. Heard the learned counsel for the applicant and the learned A.PP for the respondent/State.

3. The applicant seeks suspension of the sentence imposed upon him by the learned Additional Sessions Judge, Aurangabad in Sessions Case No. 180 of 2023 dated 19.07.2023. The applicant has been convicted the offences punishable under Section 324 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for

seven months and to pay fine of Rs. 60,000/- out of which, Rs. 50,000/- be paid to the informant by way of compensation under Section 357 of the Code of Criminal Procedure, in default of payment of fine the accused shall suffer further rigorous imprisonment for two months.

4. The learned counsel for the applicant would submit that since the fine has not be deposited the learned trial Court did not suspend the sentence. He would argue that the applicant is a poor and considering his condition the fine imposed is exorbitant. It appears mistake on the part of the learned counsel for the applicant that out of fine, Rs. 50,000/- is compensation amount under Section 357 of the Code of Criminal Procedure and only Rs. 10,000/- is a fine amount.

5. The learned counsel for the applicant states that the applicant is ready to deposit fine amount of Rs. 10,000/-. The sentence imposed upon the applicant is merely seven months rigorous imprisonment punishable under Section 324 of the Indian Penal Code.

6. The applicant was an under trial prisoner and languishing in the jail for more than eight months and ten days. Only because he could not deposit the fine amount, he has not been released though he has completed the corporal sentence. Perhaps, he may not be released

from jail as he has to undergo rigorous imprisonment for two months for default in the payment of fine. In the facts and circumstances of the case, the applicant may be directed to be released on bail after depositing the fine of Rs. 10,000/-. Since he has already undergone the corporal sentence, further sentence, it is liable to be suspended. Hence, the following order :-

ORDER

- (i) The application is allowed.
- (ii) The applicant shall be released on bail on executing PB. and S. B. of Rs. 50,000/- with one solvent surety of the like amount after depositing the fine amount of Rs. 10,000/-.
- (iii) The fine amount be deposited with the learned Additional Sessions Judge, Aurangabad.
- (iii) Bail before the learned Additional Sessions Judge, Aurangabad.

(S. G. MEHARE)
JUDGE

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