

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

2 CRIMINAL APPLICATION NO.3063 OF 2023

IN REVN/238/2023 WITH REVN/238/2023

TUSHAR @ TUKARAM RAMLING KSHIRSAGAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Pande Balraj Prakash.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : S. G. MEHARE, J.
DATE : 18.08.2023

PER COURT :-

1. Issue notice to the respondent. Learned APP waives service of notice for the respondent-State.
2. Call Record and Proceedings.
3. The applicant seeks suspension of sentence imposed upon him by the learned Judicial Magistrate First Class, Court No.15, Aurangabad by her judgment and order passed in RCC.No.941 of 2014, dated 13.01.2020, to suffer R.I. for one year for the offence punishable under Section 354(D) of the IPC and R.I. for 15 days for the offence punishable under Section 341 of the IPC and confirmed by the learned Additional Sessions Judge, Aurangabad in Criminal Appeal No.12 of 2020, dated 10.08.2023.

4. Learned counsel for the applicant would submit that it is a short term sentence. The applicant has legal points to argue. Section 354(D) of the IPC has been misinterpreted. After dismissal of the appeal, he has been taken into custody. The applicant has no bad past. Hence, the sentence may be suspended.

5. Learned APP submits that there are two concurrent judgments against the applicant holding him guilty for the offences, for which, he has been sentenced to suffer imprisonment. There are no legal grounds to argue. It was an offence against a woman. Hence, criminal application may not be allowed.

6. Perused the impugned judgments and orders. The normal rule for suspending the sentence is to suspend the sentence, if there are no exceptional circumstances. It is a short term sentence of one year and 15 days. The applicant appears to have the grounds to argue in the revision. Therefore, he deserves suspension of sentence. Hence, the following order :

ORDER

- (i) Criminal Application is allowed.

- (ii) The execution, implementation, effect and operation of the sentence to suffer R.I. for one year for the offence punishable under Section 354(D) of the IPC and R.I. for 15 days for the offence punishable under Section 341 of the IPC imposed upon the applicant in R.C.C.No.941 of 2014 by the learned Judicial Magistrate First Class, Court No.15, Aurangabad by her judgment and order dated 13.01.2020 and confirmed by the learned Additional Sessions Judge, Aurangabad in Criminal Appeal No.12 of 2020, dated 10.08.2023 has been suspended till conclusion of the revision.
- (iii) 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 Additional Sessions Judge, Aurangabad.
- (v) Stand over to 06.10.2023.

(S. G. MEHARE, J.)

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vmk/-