

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

**CRIMINAL APPLICATION NO. 3514 OF 2023 IN
CRIMINAL APPEAL NO. 848 OF 2023**

Tejusing Tufansing Tak

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S. S. Gangakhedkar, advocate for the Applicant

Mr. P. M. Kulkarni, APP, for the Respondent-State

CORAM : SANDIPKUMAR C. MORE, J.

DATE : 16th OCTOBER, 2023.

P.C. :

1 Issue notice to the respondent.

Learned APP waives service for respondent-State.

2 Heard rival submissions.

3 The applicant is seeking suspension of his substantive sentence of imprisonment of one year awarded under Section 20-b (ii) (a) of the NDPS Act, 1985.

4 The learned Counsel for the applicant-accused submits that the applicant-accused has already deposited the fine amount and he tendered across the bar original receipt to that

effect. On perusal of the same, it appears that applicant-accused has deposited the fine amount with the trial Court. Further, the judgment indicates that the applicant-accused was on bail throughout the trial. According to the learned Counsel for the applicant, the applicant is on bail even after conviction.

5 On the contrary, the learned APP strongly opposed the application on the ground that the trial Court has convicted the applicant after considering the entire material on record. According to him, there is nothing on record to show that the applicant has been released on bail after conviction.

6 However, it is significant to note that the applicant has already deposited the fine amount. Moreover, according to the learned Counsel, he is on bail even after conviction. The applicant-accused was on bail during the trial and, therefore, even if there is nothing on record to show that the applicant has been released on bail after the conviction, but considering the quantum of imprisonment i.e. for one year, I am of the opinion that substantive sentence of imprisonment of the applicant can be suspended during the pendency of this appeal.

7 Hence, following order is passed:

- (i) The Criminal Application is hereby allowed.
- (ii) The substantive sentence of imprisonment imposed upon the applicant-accused vide judgment and order dated 26.07.2023, passed by the learned Additional Sessions Judge-1, Nanded, in Special (NDPS) Case No. 02 of 2017, is hereby suspended during the pendency of this appeal.
- (iii) The applicant-accused is hereby released on execution of his P. R bond of Rs.25,000/- (Rs. Twenty Five thousand) with one or more solvent sureties in the like amount. Bail before the trial Court.

SANDIPKUMAR C. MORE
JUDGE

adb

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Appellant

Versus

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Respondent

Mr. S. S. Gangakhedkar, advocate for the Appellant
Mr. P. M. Kulkarni, APP, for the Respondent-State

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 16th OCTOBER, 2023.

P.C. :

Heard.

Admit.

Learned APP waives service for respondent-State.

Call R & P along with paper book.

**SANDIPKUMAR C. MORE
JUDGE**

adb