

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

**CRIMINAL APPLICATION NO.3735 OF 2023
IN
CRIMINAL REVISION APPLICATION NO.304 OF 2023**

Laxman Namdev Gangawane

... Applicant

Versus

The State of Maharashtra

... Respondent

...

Advocate for the Applicant: Ms. Suprabha Nagode h/f Mr. R. R. Karpe
APP for the Respondent/State: Mr. S. P. Deshmukh

...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 10.10.2023

PER COURT :

1. Heard the learned Advocate appearing for the applicant and the learned APP for the respondent/State.
2. Learned Advocate appearing for the applicant submits that the applicant was prosecuted in Regular Criminal Case No.5/2015 before the learned Judicial Magistrate First Class at Karjat for the offences punishable under Sections 326, 323, 504 and 506 r/w Section 34 of the Indian Penal Code [for short 'IPC']. The learned Magistrate convicted the applicant for the offences punishable under Sections 323 and 326 of IPC and sentenced to suffer imprisonment for nine months vide judgment and order dated

31/12/2018. Thereafter, the applicant preferred Criminal Appeal No.52/2019 before the learned Additional Sessions Judge, Shrigonda. However, the appeal came to be dismissed vide order dated 26/09/2023. After dismissal of the appeal, the applicant has been taken into the custody. Since then, he is behind the bars.

3. Learned Advocate appearing for the applicant would submit that the trial court as well as appellate court have failed to appreciate the evidence on record in its proper prospective so also apply the principles of law in a judicious manner. She would submit that there are arguable grounds in the revision. She would further submit that the applicant was on bail during the course of trial so also during pendency of the appeal. He has not misused the liberty.
4. Learned APP strongly opposes the prayer for the grant of bail.
5. Having considered the submissions advanced and on perusal of the judgments of trial court as well as appellate court, it appears that, there are arguable points, which require consideration in revision. Further, the applicant was on bail during the trial as well as during pendency of the appeal and he surrendered after confirmation of conviction and sentence. In that view of the matter, the case is made out for grant of bail. Hence, the following order:

ORDER

- (i) Criminal Application is allowed.

- (ii) Pending hearing and final disposal of revision application no.304/2023, substantive sentence imposed by the learned Judicial Magistrate First, Karjat in Regular Criminal Case No.5/2015 for the offences punishable under Sections 323 and 326 of IPC, which is confirmed in Criminal Appeal No.52/2019 by the learned Sessions Judge, Shrigonda is hereby suspended.
- (iii) Meanwhile, the applicant / accused be released on bail on executing P.B. and S.B. of Rs.25,000/- [Rs. Twenty Five Thousand Only].
- (iv) Bail be furnished before the Trial Court.
- (v) Criminal Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE