

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

**CRIMINAL APPLICATION NO.3985 OF 2022
IN REVN/350/2022**

**SHOBHA W/O BALU GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicant : Mr. Chormal Ajit B.
APP for Respondent/State : Ms. V.N. Patil Jadhav

...

CORAM : S.G. MEHARE, J.

DATED : JUNE 07, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant has been convicted for the offence punishable under Section 65(E) of Maharashtra Prohibition Act by the learned Judicial Magistrate First Class, Court No.3, Shrirampur in S.C.C. No.678 of 2019 dated 28.09.2020 and sentenced to suffer SI for three years. The learned Additional Sessions Judge, Shrirampur, District Ahmednagar confirmed the judgment of conviction in Criminal Appeal No.18 of 2020 by order dated 03.11.2022.
3. This is a case in which the learned Additional Sessions Judge did not follow Section 418 of Cr.PC. The applicant did not surrender till date. Whether in such a situation a sentence can be suspended was a question before this Court in Criminal Application

No.3373 of 2022 in Criminal Revision Application No.301 of 2022. This Court has referred that issue to the Hon'ble Division Bench. Therefore, the applicant is entitled to temporary suspension of sentence till the referred issue is decided by the Hon'ble Division Bench. Hence, the following order :

ORDER

- (i) The application is partly allowed.
- (ii) The execution, implementation and effect of the sentence to suffer SI for three years for the offence punishable under Section 65(E) of Maharashtra Prohibition Act by the learned Judicial Magistrate First Class, Court No.3, Shrirampur in S.C.C. No.678 of 2019 dated 28.09.2020 and confirmed by the learned Additional Sessions Judge, Shrirampur in Criminal Appeal No.18 of 2020 by order dated 03.11.2022 is temporarily suspended till the issue referred to the Hon'ble Division Bench is decided or the revision is decided, as the case may be.
- (iii) The applicant shall be released on **temporary** bail on executing PB. and S.B. of Rs.50,000/- (Rs. fifty thousand) with one solvent surety of the like amount till the issue referred to the Hon'ble Division Bench is decided on merit.
- (iv) Bail before the learned Additional Sessions Judge, Shrirampur.

(3)

(v) List the matter in due course.

(S.G. MEHARE, J.)

Mujaheed//