

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

**CRIMINAL APPLICATION NO.4100 OF 2022
IN
CRIMINAL APPEAL NO.92 OF 2016**

ANIL NANA YELMANE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Joydeep Chatterji, Advocate for applicant

Mr. R.D. Sanap, APP for respondent

...

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 18th JANUARY, 2023

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present is the second application for suspension of sentence. His earlier application was rejected by this Court on 04.04.2016. The applicant has faced trial in Sessions Case No.12/2004 and has been convicted by learned Additional Sessions Judge, Sangamner, Dist. Ahmednagar on 30.01.2016, for the offence punishable under Section 302, 325, 323 read with Section 34 of the Indian Penal Code. He has been sentenced thus -

- 1) Accused No.1 Anil Nana Yelmane, is convicted for the offence

punishable under Section 302 read with Section 34 of the Indian Penal Code and sentenced to suffer imprisonment for life and pay fine of Rs.5,000/- (Rupees Five Thousand only), in default to suffer rigorous imprisonment for six months.

2) Accused No.1 Anil Nana Yelmane is further convicted for the offence punishable under Section 325 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1,000/- (Rupees One Thousand only), in default to suffer further rigorous imprisonment for three months.

3) Accused No.1 Anil Nana Yelmane is further convicted for the offence punishable under Section 323 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs.500/- (Rupees Five Hundred only), in default to suffer further rigorous imprisonment for 15 days.

4) Substantive sentences shall run concurrently.

2 Heard learned Advocate Mr. Joydeep Chatterji for the applicant and learned APP Mr. R.D. Sanap for the respondent.

3 It is to be noted that though the sessions case appears to have been registered in the year 2004 for the incident that had taken place on 08.10.2003 he came to be arrested on 20.12.2013. That means, he was absconding prior to that. Thereafter, he was not released on bail during the pendency of the trial. One of the factors that has to be considered that

possibility of appellant getting absconding cannot be ruled out, taking into consideration the past conduct.

4 Another fact that has to be stated that this Court at the time of earlier order dated 04.04.2016 had perused the evidence and considering the depositions of eye witnesses, role attributed to the applicant in the crime, opined that prima facie case had not been made out for enlarging him on bail. The appeal is of 2016 and this Court is hearing jail appeals of 2015. In short time the jail appeals of 2016 would be heard. Therefore, we do not find this to be a fit case where the application should be granted. Application stands rejected.

(Abhay S. Waghware, J.)

(Smt. Vibha Kankanwadi, J.)

agd