

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO.4039 OF 2023
IN REVN/339/2023**

LAXMAN PIRAJI KALEWAR
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Anil M. Gaikwad, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondents-State.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 03rd NOVEMBER, 2023.**

PER COURT:-

1. Mr. Gaikwad, learned Advocate appearing for the applicant submits that the applicant was prosecuted in R.C.C. No.98/2015 before the Judicial Magistrate First Class, Dharmabad for offences punishable under Sections 354(B), 452 and 506 (ii) of the Indian Penal Code. On conclusion of the trial, the applicant has been convicted and sentenced to suffer S.I. for three years for offences punishable under Sections 354(B) and 452 of the Indian Penal Code. On Appeal the learned Additional Sessions Judge, Biloli confirmed the conviction of sentence for offences punishable under Sections 354 and 451 of the Indian Penal Code and modified the sentence to simple imprisonment for one month. Mr. Gaikwad would further submit that the Trial Court as well as the Appellate Court have failed to consider the infirmity in the evidence of the prosecution and stretched the evidence to convict the applicant. He would submit that the applicant was on bail during the course of trial as well as during the pendency of the appeal. He would further submit that the applicant has immediately surrendered on confirmation of the conviction and sentence as per Trial Court and presently he is behind the bar.

2. The learned APP opposes the prayer for grant of bail contending that both the Courts below have appreciated the evidence on record in its proper perspective and arrived at just and proper conclusion. The conviction is based on substantive evidence.

3. Having considered submissions advance and on perusal of the reasoning adopted by the Trial Court as well as Appellate Court, it appears that the matter requires consideration in detail after calling for Records and Proceedings. Since the applicant was on bail during the trial as well as during the pendency of appeal and he has not misused the liberty, case is made out for suspension of sentence and release the applicants on bail. Hence, the following order:

ORDER

- (i) The Criminal Application is allowed.
- (ii) Pending hearing and final disposal of the Revision Application, the substantive sentence imposed by the Judicial Magistrate First Class, Dharmabad in Regular Criminal Case No.98/2015 dated 14.09.2018 and modified by the Additional Sessions Judge, Biloli in Criminal Appeal No.47/2018 dated 18.10.2023 is hereby suspended till further orders.
- (iii) Meanwhile, the applicant, Laxman Piraji Kalewar, be released on bail on furnishing P.B. and S.B. of Rs.25,000/- (Rs.Twenty Thousand only) each with one solvent surety of the like amount.
- (iv) Bail before the Trial Court.
- (v) The Criminal Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE