

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

**CRIMINAL APPLICATION NO. 4065 OF 2023
IN
CRIMINAL REVISION APPLICATION NO. 344 OF 2023**

Kishor S/o. Sukhdeo Lad
versus
The State of Maharashtra.
...

Mr. Samir A. Shaikh, Advocate for applicant
Mrs. P.V. Diggikar, APP for respondent/State.

**CORAM : S.G. CHAPALGAONKAR, J.
DATE : 6TH NOVEMBER, 2023**

ORDER :-

1. Heard learned advocate for the applicant and learned APP for the State.
2. Mr. Samir Shaikh, learned advocate for applicant submits that the applicant was prosecuted in RCC No. 249 of 2000 before the Chief Judicial Magistrate, Dhule for the offences punishable under Sections 420, 468, 471 of IPC and on conclusion of trial the applicant has been convicted for offence punishable under Section 420, 468 and 471 of IPC and sentenced to suffer R.I. for 1 year and to pay compensation of Rs.1,000/-, in default, to suffer S.I. for 3 months. The order passed by the Magistrate was subjected to appeal before the Sessions Judge, Dhule vide Criminal Appeal No. 46 of 2014. The learned Sessions Judge, by order dated 25.10.2023 confirmed the conviction and sentence passed by the trial court. The applicant has immediately surrendered and since then

he is behind bars.

3. Mr. Shaikh, learned advocate for the applicant would submit that the applicant submits that both the courts below have failed to appreciate the evidence on record in its proper perspective.

4. Learned APP vehemently opposed the prayer contending that the trial Court as well as the appellate court have concurrently recorded a finding of guilt of the applicant and accordingly the conviction and sentence is maintained.

5. Having considered the submission advanced and after going through the reasoning adopted by the courts below, it appears that there are arguable grounds, which require consideration after perusing the record and proceeding. It is also apparent that the applicant was on bail during trial so also during the pendency of appeal. He has surrendered immediately after confirmation of conviction and sentence by the Sessions Court. In that view of the matter, a case is made out for suspension of sentence and grant of bail. Hence, the following order :-

O R D E R

[I] The application is allowed;

[ii] The substantive sentence imposed by the Chief Judicial Magistrate, Dhule in RCC No. 249 of 2000 and confirmed by the learned Sessions Judge, Dhule in Criminal Appeal No. 46 of 2014, is hereby suspended till disposal of the revision.

[iii] In the meanwhile, the applicant be released on bail on his

furnishing P.B. and S.B. in the sum of Rs. 25,000/- with one solvent surety/security in the like amount.

[iv] Bail to be furnished before the trial court.

[v] The application stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-