

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

CRIMINAL APPLICATION NO.4171 OF 2023
IN
CRIMINAL REVISION NO.348 OF 2023

GAJANAN VITTHAL PITLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S.K. Chavan
APP for Respondent : Mr. S.D. Ghayal

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : 13th November, 2023
(Vacation Court)

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PER COURT :-

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. Learned advocate appearing for the applicant submit that, applicant was prosecuted in RCC No.97 of 2015 for the offence punishable u/s 354-A(1)(i) and (ii) of the Indian Penal Code. On conclusion of the trial, the applicant has been convicted for the aforesaid offences and sentenced to suffer RI for three months and to pay fine of Rs.1,000/-, in default to suffer R.I. for 10 days. The applicant preferred appeal before the Additional Sessions Judge, Gangakhed, District Parbhani, however, said appeal came to be dismissed vide judgment and order dated 1.11.2023. Hence, this revision application.

aaa/-

3. Learned advocate appearing for the applicant would submit that the Courts below have failed to appreciate the evidence in its proper perspective; so also defence of the applicant. As such, erroneously reached to the conclusion thereby convicting the applicant.

4. Learned APP would submit that both the Courts below after considering the evidence on record concurrently found that the applicant is guilty.

5. Having considered the submissions advanced and after going through the judgments of the trial court as well as the appellate court, it can be gathered that Courts below missed consideration of facts that benefits applicant-accused. Hence, re-appreciation of evidence to certain extent would be necessary after calling the record. It is further observed that the applicant was on bail during trial so also during pendency of the appeal. He has not misused the said liberty. Hence, case is made out for grant of bail. Hence, following order is passed.

ORDER

- (i) The Criminal Application is allowed.
- (ii) Pending hearing and final disposal of criminal revision application no.348 of 2023, the substantive part of the sentence imposed by the learned Judicial Magistrate First Class, Palam in RCC No.97 of 2015 for the offence punishable under section 354-A (1)(i) and (ii) of IPC and confirmed by the Sessions Court in Criminal Appeal No.1 of 2017 is hereby suspended.

- (iii) Meanwhile, the applicant be released on bail subject to his furnishing of P.B. & S.B. of Rs.25,000/- (Rs. Twenty Five thousand).
- (iv) Bail be furnished before the learned Trial Court.
- (v) Application is accordingly disposed off.

(S. G. CHAPALGAONKAR, J.)

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