



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

**CRIMINAL APPLICATION NO. 4465 OF 2023
IN CRIMINAL REVISION/369/2023**

**HARIBHAU LAXMAN KUMBHARKAR
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Jadhavar Aashish T.
APP for Respondent/State : Mrs. P. J. Bharad.

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 21.12.2023

PER COURT :

Heard Mr. Jadhavar, learned advocate appearing for the applicant.

2. By this application, the applicant is seeking suspension of substantive sentence passed by learned Judicial Magistrate, First Class, Sailu, District Parbhani dated 05.10.2020 in Regular Criminal Case No. 151/2014 and confirmed by the learned Sessions Judge, Parbhani in Criminal Appeal No.31/2020 vide judgment and order dated 22.11.2023 and his release on bail.

3. Mr. Jadhavar, learned advocate, would submit that the applicant was subjected to prosecution in Regular Criminal Case No. 151/2014 before Judicial Magistrate First Class, Sailu, District Parbhani. On conclusion of trial the applicant is convicted for the offence punishable under Sections 448 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs. 1000/- (Rs. One Thousand only), in default of payment of fine to suffer simple imprisonment for fifteen days for. He is also sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs. 4000/- (Rs. Four Thousand only) and in default of

payment of fine to suffer simple imprisonment for one month for the offence punishable under Section 354-A of the Indian Penal Code. Aggrieved by the conviction and the sentence dated 05.10.2020 passed by the Judicial Magistrate First Class Sailu, Criminal Appeal No. 31/2020 was preferred before the Sessions Judge at Parbhani, which came to be dismissed vide judgment and order dated 22.11.2023.

2. By inviting attention of this Court to the reasoning adopted by the trial court as well as court of appeal, he would submit that there are good grounds which require consideration after calling for record and proceeding. He would, therefore, urge to release the applicant on bail.

3. The learned A.P.P. opposes the prayer contending that both the courts have concurrently found applicant to be guilty for the aforesaid offences.

4. Having considered submissions and after going through the reasoning adopted by both the Courts *prima facie* it appears that the ground raised in the revision application requires consideration in detail after calling for record and proceeding. The applicant was on bail during the trial so also appeal and surrendered on 19.10.2023 after confirmation of the conviction and sentence by the Appellate Court. The applicant has not misused the liberty. In that view of the matter, a case is made out to grant bail. Hence, following order is passed.

ORDER

(i). The Criminal Application is allowed.

(ii) The substantive sentence imposed against the applicant vide impugned judgment and order passed by Judicial Magistrate First Class Sailu District Parbhani in Regular Criminal Case No. 151/2014 dated 05.10.2020 and confirmed in Criminal Appeal No. 31/2020 by the Sessions Judge at Parbhani vide order dated 22.11.2023, is

hereby suspended till disposal of this criminal revision application.

(iii). Pending hearing and final disposal of Criminal Revision Application No. 369/2023, the applicant Haribhau s/o Laxman Kumbharkar in RCC No. 151/2014 be released on bail on furnishing PB. and S.B. of Rs. 50,000/- (Rs. Fifty Thousand only).

(iv) Bail be furnished before the learned Trial Court.

(5) Criminal Application is disposed of.

(S. G. CHAPALGAONKAR, J.)

mkd/-