

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.4558 OF 2023
IN
APPEAL NO.1357 OF 2023**

Tushar Namdev Gangode ...Applicant

V/s.

The State of Maharashtra ...Respondent

Mr. Harsh Nishar a/w Mr. Amey Deshpande for Applicant.
Mr. A.R. Patil, APP for State.

CORAM: MADHAV J. JAMDAR, J.
DATE: 21st December 2023

P.C.:

- 1.** At the outset, the Applicant is granted leave to amend the prayer clause. Amendment be carried out forthwith.
- 2.** This is an Application for suspension of sentence and for grant of bail during pendency of Criminal Appeal preferred by the Applicant challenging the Judgment and Order of conviction dated 3rd November 2023 passed by the learned Additional Sessions Judge, Nashik in Sessions Case No. 212 of 2021.
- 3.** The Applicant is convicted for the offence under Sections 304(II) and 323 of *Indian Penal Code, 1860* and sentenced to

suffer rigorous imprisonment for 7 years and to pay fine of Rs.2,000/-.

4. Perusal of the judgment of learned Additional Sessions Judge clearly shows that the offence has taken place due to a quarrel between the accused and deceased victim. It has also come on record that the deceased had consumed liquor at the relevant time. Admittedly, the sentence is only of 7 years and appeal preferred by the Applicant is not likely to be heard in near future. There are no criminal antecedents. There are no exceptional circumstances to deny the relief to the Applicant.

5. In the light of the decision of the Supreme Court in the case of ***Bhagwan Rama Shinde Gosavi Vs. State of Gujarat*¹**, the prayer for suspension of sentence pending Appeal is required to be considered by the Appellate Court liberally unless there are exception circumstances.

6. Accordingly, in view of the facts and circumstances of this case, the Applicant deserves to be released on bail. Hence, the following order:

ORDER

(i) Substantive sentence of imprisonment imposed
vide Judgment and Order dated 3rd November
2023 passed by the learned Additional Sessions

¹ (1999) 4 SCC 421

Judge Nashik in Sessions Case No. 212 of 2021 is suspended during the pendency of the Appeal.

(ii) The Applicant Tushar Namdev Gangode be released on bail on executing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(iii) The Applicant to furnish his residential address and contact details to the Police Inspector of Vani Police Station, District Nashik.

7. The Interim Application is disposed of in above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)