



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

**12 CRIMINAL APPLICATION NO. 3302 OF 2024
IN APEAL/728/2024**

NITIN MADHAV PATIL
VERSUS
THE STATE OF MAHARASHTRA

Mr.P.P. More, Advocate for the applicant.
Mr.S.M. Ganachari, APP for the respondent-State.

CORAM : KISHORE C. SANT, J.
DATE : 12.08.2024

PC :-

01. This application is filed by original accused No.2 for suspension of sentence and conviction as awarded by the learned Sessions Judge, Nilanga in Sessions case No.13 of 2019 vide order dated 29.07.2024. The Court has held the applicant guilty of the offence punishable under section 353 r/w 34 of the Indian Penal Code and imposed sentence to pay fine of Rs.5000/- and in default of payment of fine, to suffer simple imprisonment for 15 days. No sentence to suffer is awarded, except in default of payment of fine.

02. So far as suspension of sentence is concerned, learned APP fairly submits that he has no objection, however, he submits that he has

serious objection for staying conviction of the applicant.

03. Learned Advocate for the applicant vehemently argued that the applicant during the pendency of the case has acquired qualification of LL.B. and LL.M. in distinction. While applying for Sanad to Bar Council of Maharashtra and Goa, he has given an undertaking that in case he is convicted in the present case, he shall surrender his Sanad. Learned Advocate for the applicant submits that the learned Sessions Judge has convicted the applicant without there being sufficient evidence on record. The evidence would show that PW-2 Kawade, who was working as API has not stated specific role of the present applicant. From the cross-examination of this witness it is seen that he had been to assist the police from Karnataka, who had arrived for investigation in the crime and he had gone to house of Udhav Patil. All three accused obstructed police and did not allow them to take search. However, he has not stated any specific role of this applicant. In the cross he admitted that the police from Karnataka did not show him documents. He thus submits that there is no specific role attributed to him. Thus, as per his submissions, even on merit, there is no case made out against the applicant. Therefore, he submits that exceptional case is made out to stay the conviction.

04. In his support he relied upon order passed by this Court at Principal Seat in the case of **Chanda Ram Shivsharan Vs. State of Maharashtra** dated 09.08.2023 in Interim Application No. 1647 of 2023 in Criminal Appeal No. 173 of 2022, wherein this Court by considering various judgments including judgment in the case of **Sanjay Datt Vs. State of Maharashtra (2009) 5 SCC 787**, has stayed the conviction. He thus prayed for allowing the application.

05. The learned APP vehemently opposed the application. He relied upon evidence of PW-3 i.e. P.I. from Hospet Police Station, Dist. Vijay Nagar. In his deposition, he made allegation that the accused person did not allow police persons to seize the vehicle and obstructed in the work of investigation. He further stated that accused persons used criminal force with intention to assault. The learned APP thus submits that clear case is made out. The Sessions Court considering the evidence has taken lenient view and has awarded punishment of fine only. No further leniency needs to be shown to such accused.

06. Having considered the evidence, this Court finds that no specific act is alleged against the present applicant. The allegations are

against all the accused persons without specifying role of any one. Thus, case is made out to create doubt. Looking to the fact that the applicant will have to surrender the Sanad in case conviction is not stayed, this Court finds that this factor needs to be considered that as in that case situation would be irreversible if applicant is not allowed to practice as advocate. No exception can be made in the cases while considering the cases of suspension of sentence or conviction, merely because applicant happens to be advocate. Therefore, looking into merits and evidence, this Court is inclined to allow the application.

07. Therefore, the application is allowed in terms of prayer clause (B). It is made clear that henceforth the applicant shall not involve in such activity or shall not contest any election of the Bar Association or any other election, pending the appeal.

[KISHORE C. SANT, J.]