

Khandu Shivappa Aaiwale	...	Applicant/Appellant
V/s.		
State of Maharashtra & Anr.	...	Respondents

Mr. B.V. Holambe-Patil, APP, for the State.

DATE : 12TH APRIL 2024.

1. Heard.
2. None for respondent no. 2 though duly served.
3. This application is filed for suspension of sentence and release of the applicant on bail.
4. The appeal of the applicant is already admitted. During the trial he was not on bail. The applicant is held guilty by the Additional Sessions Judge, Solapur in Sessions Case No. 244 of 2021 by the judgment and order dated 06/09/2022 for the offence punishable

under section 307 of IPC and is directed to suffer R.I. for 5 years and to pay fine of Rs. 10,000/- and in default, S.I. for 6 months.

5. Learned advocate for the applicant submits that the applicant is in custody since 06/09/2022. The applicant has suffered more than 50% of the sentence. He further submits that the sentence is short sentence. The appeal is of 2022 and is not likely to be heard in near future and even till completion of the sentence. He, thus, prays for suspension of sentence.

6. Learned APP vehemently opposes the application stating that the trial Court has rightly convicted the applicant. There is evidence on record to prove the offence including medical evidence. There is recovery of vehicle at the instance of the applicant. Looking to this evidence, the trial Court has rightly convicted the applicant and has awarded punishment by taking lenient view.

7. This Court, however, finds that the sentence is short sentence. The applicant has already suffered more than 50% of the sentence. The applicant is only 33 years of age. The appeal is not likely to be heard even till completion of the sentence. In view of judgment in case of '*Bhagwan Rama Shinde Gosai and Ors. Vs. State of Gujarat*¹', this Court is of the opinion that the case is made out to suspend the

1 (1999) 4 SCC cases 421

sentence and release the applicant on bail. Hence, the following order:

O R D E R

- i) Application is allowed.
- ii) Substantive sentence awarded by the Additional Sessions Judge, Solapur in Sessions Case No. 244 of 2021, dated 06/09/2022, stands suspended.
- iii) The applicant shall be released on bail on furnishing P.R. bond of Rs. 15,000/- and one solvent surety in the like amount, subject to deposit of the fine amount if not paid in the trial Court.
- iv) The applicant shall not enter in the Solapur City till appeal is heard.
- v) The Applicant shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details the same will be immediately informed to the concerned police station.

8. With this, the application is disposed of accordingly.

(KISHORE C. SANT, J)