



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

**CRIMINAL APPLICATION NO.375 OF 2025
IN
CRIMINAL APPEAL NO.1143 OF 2023**

Deepak Govind Khile ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr.Joydeep Chatterji, Advocate for applicant
Mr.S.D.Ghayal, Addl. Public Prosecutor for respondent – State
Mr.Mukul Kulkarni, Advocate assisting the A.P.P.

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.**
DATE : FEBRUARY 13, 2025

ORDER :-

This is an application for suspension of sentence, on the ground of long incarceration. The applicant has been convicted and sentenced by learned Addl. Sessions Judge, Dhule, in Sessions Case No.79 of 2016, vide judgment and order dated 08.11.2023, for the offences punishable under Sections 302, 324, 341, 143, 147 and 148 r/w. Section 149 of Indian Penal Code.

2. It is submitted by learned counsel for the applicant/appellant that the applicant/appellant is behind the bars for 8 years and 7 months and the co-convicts have been released on bail, except one. It is submitted that since the appeal may not be heard finally in

near future, the application may be allowed. In support of his contention that the long incarceration is a ground to suspend the sentence, he places reliance on the orders of the Hon'ble Supreme Court of India in (i) **Suresh Dattatraya Sonawane Vs. The State of Maharashtra and anr., in Criminal Appeal No.2590 of 2023 (arising out of SLP (Crl.) No.6719 of 2023) decided on 25.08.2023**; and (ii) **Jagatpal Verma Vs. The State of Uttar Pradesh, in Criminal Appeal No.1725 of 2024 decided on 17.01.2025.**

3. The application is opposed by learned APP and learned counsel for the intervenor. They submit that this Court is hearing Criminal Appeals on daily basis and since present appeal is ready for hearing, same can be fixed for final hearing. They submit that the co-convict, who had been granted bail, stand on different footing than that of the present applicant. They submit that on the said ground, the application may be rejected.

4. There is no dispute that the present applicant/appellant along with the co-convicts, had preferred Criminal Application No.4347 of 2023 in Criminal Appeal No.1143 of 2023. Said application was considered and decided by this Court vide order dated 14.02.2024. As this Court was not inclined to suspend the

sentence of the applicant on merits, the application was withdrawn to his extent. Now, the applicant has preferred present application for suspension of sentence on the ground of long incarceration.

5. Perusal of the orders passed by the Hon'ble Supreme Court of India in the cases of **Suresh Dattatraya Sonawane** (supra) and **Jagatpal Verma** (supra) shows that the applicants therein were released on bail, on the ground of long incarceration, wherein the period of incarceration was six (6) years to ten (10) years, without referring the merits of the case. There is no dispute that the applicant/appellant is behind the bars for 8 years and 7 months. While suspending the sentence and granting bail to the co-convicts, this Court, in the order dated 14.02.2024 passed in Criminal Application No.4347 of 2023 in Criminal Appeal No.1143 of 2023, observed that the appeal may not come for hearing in the near future. In this view of the matter, we are inclined to allow the present application. Hence, the following order:-

- (i) The application is allowed.
- (ii) During pendency of the appeal, the substantive sentence of imprisonment imposed against the applicant/appellant by learned Addl. Sessions Judge, Dhule, in Sessions Case No.79 of 2016, vide

judgment and order dated 08.11.2023, for the offences punishable under Sections 302, 324, 341, 143, 147 and 148 r/w. Section 149 of Indian Penal Code, to stand suspended.

(iii) The applicant/appellant be released on bail, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

KBP