



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

**CRIMINAL APPLICATION NO.435 OF 2025
IN CRIMINAL APPEAL NO.356 OF 2022**

Sajid @ Prem Ahemad Shaikh
Vs.
The State of Maharashtra

..Applicant

..Respondent

Mr.Nilesh Ghanekar, Advocate for applicant
Mrs.U.S.Bhosale, APP for respondent
Mr.S.N.Deshmukh, Advocate for respondent no.2 - informant

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

ORDER :-

This is a second application for suspension of sentence and bail. The applicant/appellant, who had been convicted and sentenced by learned Addl. Sessions Judge, Shahada, Dist. Nandurbar, in Sessions Case No.52 of 2017 vide judgment and order dated 01.04.2022, had, earlier, moved an application being Criminal Application No.140 of 2024, for suspension of sentence. Said application was not pressed by learned counsel for the applicant/appellant on the instructions of the applicant. The same was disposed of as not pressed by order dated 09.05.2024.

2. It is submitted by learned counsel for the applicant/appellant that the co-convict - Shaikh Shakil @ Babulal Shaikh Ahemad, to whom similar role is attributed by the prosecution witnesses, has been granted bail by the Apex Court vide order dated 24.01.2025 in Petition(s) for Special Leave to Appeal (Cri.) No. (s).15154/2024. He submits that the present applicant/appellant may be released on parity.

3. The application is opposed by learned APP and learned counsel for respondent no.2. They submit that if we see the evidence of the witnesses, the role of the present applicant and that of the co-convict - Shaikh Shakil can be differentiated. They had assaulted the victim in hospital. No straight-jacket formula can be applied while considering the application for bail. They submit that the application may be rejected and the appeal may be heard.

4. The order dated 24.01.2025 passed by the Apex Court, in Petition(s) for Special Leave to Appeal (Cri.) No.(s).15154/2024 reads thus:-

“ *Leave granted.*

The appellant has been convicted for the offences punishable under Sections 302 and 307 read with Sections 34 and 120-B of the Indian Penal Code, 1860 and has been sentenced to life imprisonment by the trial Court. The appeal filed by the appellant against the same is pending before the High Court.

Admittedly, the appellant has been under incarceration for more than seven and half years. The appeal is of the year 2022 and, therefore, it might take substantial time to conclude.

In view of the above facts and circumstances, we are inclined to set aside the impugned order and suspend the sentence of the appellant.

Accordingly, the impugned order is set aside and the sentence of the appellant is suspended on terms and conditions to the satisfaction of the trial Court.

The appeal stands allowed, accordingly.

5. The evidence on record go to show that the applicant/appellant and the co-convict who has been granted bail by the Apex Court, are on the same footing in respect of commission of the crime. The paper book of appeal is not yet ready and the Record and Proceedings is sent to the trial Court for preparing the same. The applicant is behind the bars for 7 years and 7 months. The applicant is, therefore, entitled for parity.

6. Hence, we pass 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, Shahada, Dist. Nandurbar, in Sessions Case No.52 of 2017 vide judgment and order dated 01.04.2022, 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