



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

902 CRIMINAL APPLICATION NO.1284 OF 2025
IN
CRIMINAL APPEAL NO.764 OF 2025

Aakash Shankar Shinde @ Akash Waddar ..Applicant

Versus

The State of Maharashtra ..Respondent

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Shri. Sharad S. Shinde, Advocate for the Applicant (Through Legal Aid)
Shri. M. K. Goyanka, APP for the Respondent – State.

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CORAM : NEERAJ P DHOTE, J.

Dated : OCTOBER 09, 2025

PER COURT :-

. This is the Application for Suspension of substantive Sentence imposed by the learned Additional Sessions Judge, Amalner in Sessions Case No.18 of 2020 by the Judgment and Order dated 21.09.2021 convicting the Applicant – Appellant, who was the Accused No.2, as follows:

“ORDER

(a) Accused Nos.1) **Kunal Vijay Shimpi**, Age 26 years, resident of Shivshakti Chowk, Baherpura, Tal. Amalner and No.2) **Aakash Shankar Shinde alias Aakash Waddar**, Age 21 years, resident of Prasad nagar, Galwade road, Amalner, Tal. Amalner, District-Jalgaon, are hereby convicted for the offences punishable under Sections 392 and 397 of Indian Penal Code, vide Section 235(2) of Code of Criminal Procedure.

(b) Both the accused are sentenced under Section 397 of Indian Penal Code, to undergo rigorous imprisonment for seven years each, and to pay a fine of ₹5,000 each, in

default of payment of fine amount, to suffer simple imprisonment for further six months each.

2. It is the case of the Prosecution that, on 02.11.2019 between 10:45 p.m. to 11:30 p.m. while the Informant was waiting at the Dhule road for a bus to Nashik, three (3) persons came on Motorcycle and tried to snatch his mobile handset, but the Informant held it tightly, so they could not take it. The said three (3) persons left the spot and returned after some time. They robbed the Informant of Rs.5,000/- (Rs.Five Thousand) and stabbed the Informant with Knife and fled. After the Trial, the Applicant - Appellant and the Accused No.1 came to be convicted, by the above referred Judgment and Order. One of the Accused was Juvenile.

3. According to the learned Advocate for the Applicant – Appellant that, the Co-Convict has been released on Bail on Suspension of his Sentence. The Applicant is behind the bars for a period of 5 (five) years and 10 (Ten) Months. The Appeal is not likely to be heard in the near future and, therefore, the Application be allowed.

4. The Application is opposed by the learned APP. He submits that the Applicant had stabbed the Informant which caused injury to the Informant. The Prosecution had proved their case and the Conviction is rightly recorded by the learned Trial Court. He submits that, the Appeal may be heard and the Application be rejected.

5. Para No.16 from the Impugned Judgment reads as under :

“16] In his cross-examination, informant (PW-1) admitted almost all the defence suggestions that;

(a) during first attempt he could not see the physique, complexion

and clothes of the robbers.

(b) he cannot say definitely that the culprits, in the first attempt and

in the next incident, were the same persons.

(c) he did not know which clothes the robbers had worn at the time

of committing offence.

(d) after arrest of an accused, on 04.11.2019 and after subsequent

arrest, he had seen the newspaper reports and photos of the accused

published therein.

(e) he had also seen the news and photos on WhatsApp group.”

6. The Co-convict, by name, Kunal Vijay Shimpi i.e. Accused No.1 had preferred Criminal Appeal No.572 of 2021 and by order dated 25.11.2021 in Criminal Application No.2671 of 2021, his Sentence was Suspended. The Conviction is of 7 (seven) years term Sentence with Fine. The Applicant - Appellant is behind the Bars from 14.11.2019 and period of 5 (five) years and more than 10 (ten) Months is passed. The Appeal is recently admitted and the Record and Proceedings with Paper-book is awaited and therefore, the Appeal would not be finally heard in the near future. Hence, I proceed to pass the following order.

ORDER

- (i) The Application is allowed.
- (ii) The substantive Sentence imposed by the learned Additional Sessions Judge, Amalner in Sessions Case No.18 of 2020 *vide* the Judgment and Order dated 21.09.2021 on the Applicant, by name, Aakash Shankar Shinde @ Akash Waddar, for the offence punishable under Sections 392 and 397 of the Indian Penal Code, is suspended during pendency of the Appeal.
- (iii) Applicant - Aakash Shankar Shinde @ Akash Waddar be released on bail on furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety in the like amount.
- (iv) Bail before the Trial Court.
- (v) The fees of the learned Advocate Shri. Sharad S. Shinde appointed through legal aid to represent the Applicant is quantified at Rs. 10,000/- (Rs. Ten Thousand), which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad Bench.
- (vi) Application stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)

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