



(1) 61criapln2110.25speaking

**THIS ORDER IS CORRECTED AND UPLOADED IN VIEW OF
THE ORDER DATED 04-08-2025.**

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

61 CRIMINAL APPLICATION NO. 2110 OF 2025

SHIVKUMAR YADAVRAO BACHEVAR

....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondent

Mr. Y. L. Bidve, Advocate for the applicant

Mrs. M. N. Ghanekar, APP for the respondents/State

Mr. K. G. Narwade, Advocate for the respondent No. 2

CORAM : KISHORE C. SANT, J.

DATE : 28th JULY, 2025

P. C.

1. This application is filed through Legal Aid.
2. The petitioner has approached this court seeking modification of the order dated 11-12-2024 passed below Exh.30 in Criminal Appeal No. 10/2024 by the learned Additional Sessions Judge, Bhokar. The said order reads as under:

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“01] The substantive sentence of imprisonment passed by the learned trial court in RCC No. 63/2023 on 10-07-2024 against appellant No.1 is suspended till the disposal of the appeal after depositing the fine amount of Rs.50,000/- before the trial court.

02] The appellant No.1 is in jail.

03] Appellant No.1 Shivkumar Yadavrao Bachewar be released on bail, on furnishing bail bond of Rs.15000/- and surety bond of like amount.

04] ***

05] ***

06] ***

07] ***”

3. The applicant is held guilty of committing offences punishable under Sections 498-A, 323, 506 read with section 34 of the IPC and is directed to undergo imprisonment of three years. Maximum sentence awarded is of three years and to pay a

fine of Rs.50,000/- for the offences punishable under Sections 498-A, in default to undergo RI for further five months.

4. Though the substantive sentence is imposed by the judgment and order dated 10-07-2024, it is observed that the appellant No.1 is in jail since 20-01-2024 in the proceeding for recovery of the maintenance amount. Thus, applicant is in jail since last more than 1 year and 7 months. Though the sentence is suspended, he could not be released as he could not deposit the fine amount of Rs.50,000/-. Considering that he has undergone sentence of more than one year since conviction and he is behind the bar, the condition to deposit the fine amount of Rs.50,000/- would be onerous condition, considering the situation of the applicant. He relied upon the judgments in the case of Saytendra Kumar Mehra Vs State of Jharkhand¹ and in the case of Central Bureau of Investigation Vs Ashok Sirpal in Criminal Appeal No. 4277/2024.

5. In view of above and considering the ratio laid down

1 (2018) 15 SCC 139

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in the aforesaid cases, this court is inclined to allow the application. The order passed by the learned Sessions Judge dated 11-12-2024 is therefore, modified.

6. The order dated 11-12-2024 be modified and be read as under:

ORDER

i. Substantive sentence of imprisonment passed by the learned trial court in RCC No. 63/2023 dated 10-07-2024 to the extent of appellant No. 1 is suspended till the appeal.

ii. The condition of depositing the fine amount of Rs.50,000/- is also suspended till the appeal period is over.

iii. The applicant – Shivkumar be released on bail on furnishing personal bond in the sum of Rs.15,000/-.

7. Remaining order to remain as it is.

8. This order shall not be treated as precedent.

9. With this the criminal application stands disposed off.

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10. **Mr. Yogeshwar L. Bidve**, learned advocate is appointed. This court appreciates his efforts. He is entitled to receive the fees of Rs.15,000/- to be paid by the High Court Legal Aid Services Sub-Committee.

[KISHORE C. SANT, J.]

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