



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 CRIMINAL APPLICATION NO. 2891 OF 2025
IN CRI APEALST/7952/2025
WITH
CRIMINAL APPLICATION NO. 2890 OF 2025
IN CRI APEALST/7952/2025
WITH
CRIMINAL APPEAL ST. 7952 OF 2025

MERAJ KHAN RAFIQ KHAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Shete Gajanan Shankarrao, (Through Legal Aid)
APP for Respondent/State : Mr. D.J. Patil

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CORAM : ARUN R. PEDNEKER, J.
Dated : August 13, 2025

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for respondent/State.
2. Criminal Application No. 2890/2025 is filed for condoning delay of 30 days caused in filing the appeal. For the reasons stated in the application, the application is allowed. Delay is condoned. The application is disposed of.
3. Criminal Application No. 2891/2025 is filed for suspension of substantive sentence imposed on the applicant by the learned Additional Sessions Judge, Aurangabad in Sessions Case No. 408/2022 vide judgment and order dated 2.4.2025. The relevant operative part of the judgment is as under :-

" ORDER

1. The accused Meraj Khan Rafiq Khan is convicted for the offence punishable under Sections 304 Part-II of the Indian Penal Code vide Section 235(2) of the Code of Criminal Procedure.

2. The accused Meraj Khan Rafiq Khan is sentenced to suffer rigorous imprisonment for ten years and to pay a fine of Rs.2,000/- (Rs. Two Thousand only) in default to payment of fine, to suffer further simple imprisonment for one month in respect of the offence punishable under Section 304 Part-II of the Indian Penal Code.

3. The accused Meraj Khan Rafiq Khan is in jail since 21.05.2022. He is entitled to get set off from said date vide Section 428 of the Code of Criminal Procedure. "

4. The learned counsel for the applicant submits that the applicant is behind bars since 21st May 2022 and the maximum sentence awarded is 10 years of rigorous imprisonment. The learned counsel submits that considering that applicant is behind bars since 21.5.2022, the above substantive sentence be suspended till the conclusion of the trial.

5. The learned APP strongly opposed the application on the ground that serious offence is proved against the applicant.

6. Considered the submissions and perused the record. Hon'ble Supreme Court in **Criminal Appeal No. 3409/2025 (Special Leave Petition (Crl) No. 11361/2025)** in the case of **Aasif @ Pasha Vs. The State of U.P. & Ors.** vide order **dated 6.8.2025**, in para 12 has held as under :-

"12. Way back in 1999, this Court in "**Bhagwan Rama Shinde Gosai and Others v. State of Gujarat**" reported in (1999) 4 SCC 421 stated that when a convicted person is sentenced to a fixed period of sentence and when he files an appeal under any statutory right, suspension of sentence should be considered by the Appellate Court liberally unless there are exceptional circumstances."

7. Considering that the applicant is behind bars since 21.05.2025 and it is not known when the appeal would conclude and considering the judgment of the Hon'ble Supreme Court in the above case, I deem it appropriate to suspend the substantive sentence imposed on the applicant till the

conclusion of the trial.

8. In view of the above, the application filed for suspension of substantive sentence is allowed. The above substantive sentence imposed on the applicant is suspended on condition that applicant deposits the entire fine amount, if already not deposited, before the trial Court. The applicant shall be released on bail on such terms and conditions which the trial court may deem fit and proper. The application stands disposed of.

9. Appeal is **admitted**. The learned APP waives service of notice for respondent/State.

10. Call R. & P.

(ARUN R. PEDNEKER, J.)

ssc/