



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

996 CRIMINAL APPLICATION NO. 3161 OF 2025
IN APEAL/609/2025

Baburao Sitaram Gutthe (Maharaj)

VERSUS

The State of Maharashtra

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Advocate for Applicant : Mr. Nitin U. Telgaonkar

APP for Respondent: Mr. G.O. Wattamwar

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 21st AUGUST, 2025.

PER COURT :-

1. The applicant-original accused has preferred appeal against the judgment and order of conviction passed by the Sessions Judge, Hingoli, district Hingoli, dated 31.07.2025 in Sessions Case No. 43 of 2017 and filed this application for suspension of sentence and for bail, till disposal of the appeal.

2. Learned advocate for the applicant pointed out injury No.1 sustained to the informant caused by hard and blunt object, which does not establish the intention to kill him. He also pointed out injury No.2 sustained to the thumb of the informant. He submitted that essential ingredients of Section 307 of I.P.C. are not establishing. For that purpose, he had pointed out the statements of witnesses. He placed reliance on the authority of Hon'ble Supreme Court in the

case of **Kiran Kumar vs. State of M.P. (2001) 9 SCC 211**, in which in para 3, it is observed as under:-

*“3. This Court has held in **Bhagwanram Shinde Gosai v. State of Gujarat, 1999 (4) SCC 421** : that when a person is convicted and sentenced to a short term imprisonment the normal rule is that when his appeal is pending the sentence should be suspended and rejection is only by way of exception and be put forward for such rejection. In such case also every endeavour should be made to have the appeal posted for early hearing and disposal. If the short-term sentence is allowed to run out during the pendency of the appeal, the appeal itself will become, for all practical purposes, infructuous so far as the appellant is concerned. It does not mean that the appellate Court should suspend the sentence, if its consequence would be danger to the society or any other similar difficulties”.*

3. Learned A.P.P. strongly opposed the application and submitted that the applicant has committed serious crime of attempt to commit murder. The witnesses have supported the informant and an axe used for commission of crime has been seized. There is strong evidence against the applicant, which establishes essential ingredients of Section 307 of I.P.C. He prayed for rejection of application.

4. On perusal of impugned judgment and the deposition of

witnesses, it reveals that injuries caused to the head of the informant was caused by hard and blunt object which does not prima facie establish the essential ingredients of attempt to commit murder. The quarrel took place all of a sudden while the informant was grazing she-goats. There was no such preparation or premeditation on the part of the applicant. At this stage, all these observations are prima facie in nature. However, considering the facts and circumstances of the case and the ratio laid down in the authority of Supreme Court in the case of ***Kiran Kumar vs. State of M.P. (supra)***, it would be appropriate to suspend the substantiate part of sentence and grant bail to the applicant. Hence, the following order:-

O R D E R

- I. Criminal application is hereby allowed
- II. The substantive part of sentence passed as against the applicant by the Sessions Judge, Hingoli, district Hingoli, dated 31.7.2025 in Sessions Case No. 43 of 2017 is hereby suspended till the disposal of appeal and till then the applicant-accused is released on bail on furnishing personal bond of Rs.15000/- with one surety of the like amount.
- III. Bail before the lower court.

(SANJAY A. DESHMUKH, J.)

rlj/