



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

**905 CRIMINAL APPLICATION NO.4906 OF 2025
IN CRIMINAL APPEAL NO.977 OF 2025**

Datta Mohan Tupe,
Age: 30 years, Occu: Labour,
R/o. Yedshi, Tq. Dist. Osmanabad.

.... Applicant

Versus

The State of Maharashtra and Anr.

.... Respondents

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Ms. Anagha Vasantrya Rotte, Advocate (Appointed) for the Applicant.
Ms. M. L. Sangit, Advocate for Respondent – State.

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CORAM : NEERAJ P. DHOTE, J.

DATE : 24.12.2025

PER COURT :

1. This is an Application for suspension of substantive sentence imposed by the learned Sessions Judge, Osmanabad, in Sessions Case No.38/2024, vide Judgment and Order dated 20/11/2025, convicting the Applicant for the offence punishable under Section 353 of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC'] and sentencing him to suffer rigorous imprisonment for five [05] years and to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for one (01) year; and for the offence punishable under Section 354 of IPC, sentencing him to suffer rigorous imprisonment for five [05] years and to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for six [06] months; and for the offence punishable under Section 506 (I) of IPC, sentencing him to suffer rigorous imprisonment for six [06] months and to pay a fine of Rs.1000/-, in default, to suffer simple imprisonment for fifteen [15] days.

2. It is the Prosecution's case that, the Informant, who is the public servant and was working as the Forest Guard at the Yedshi Forest Office on 09/08/2023. One day prior to the said date, when the Informant was on patrolling duty, she noticed a two-wheeler having no registration number had entered the forest without permission. The Informant seized the said two-wheeler. The Applicant came to the office of the Informant on 09/08/2023 for taking back the said two-wheeler. The Applicant pressurized the Informant to release the vehicle, and caught hold her hand and pushed her. The Informant lodged the report with the Osmanabad Rural Police Station and Crime No.228/2023 came to be registered against the Applicant for offence punishable under Sections 353, 354, 323 and 506 of IPC. After investigation of the Crime, the Applicant came to be charge-sheeted, tried and convicted by the impugned Judgment and Order.

3. It is submitted by the learned Advocate for the Applicant that, there are major improvements in the testimony of the Informant in respect of the actual incident. The other witness examined by the Prosecution as eyewitness to the incident, nowhere deposed of the assault on the Informant by the Applicant. The Applicant was acquitted in the previous crimes. The evidence on record go to show that, the Applicant was assaulted by the Informant, for which he reported the same to the Police Station and Crime No.227/2023 came to be registered against the Informant with the same Police Station. The order of the learned Magistrate, before whom the

Applicant was produced for the first time in this Crime, show the injuries on the person of the Applicant. Considering the term sentence imposed by the learned Trial Court and the possibility that, the Appeal would not be heard in near future, the Application be allowed and sentence be suspended.

4. The Application is opposed by the learned APP. She submits that, the Informant is examined as PW – 1, who deposed of the incident of outraging her modesty and interference in the public duty. The testimony of the Informant was corroborated by the testimony of the other public servant, who witnessed the incident. The Applicant was having past criminal record and the learned Trial Court has rightly convicted and sentenced the Applicant and the Application be rejected.

5. With the assistance of both sides, perused the relevant evidence. The testimony of the Victim, who is also the Informant and examined as PW – 1, show that, her evidence that, the Accused / Applicant caught hold of her left hand is an omission. The other witness examined by the Prosecution as an eyewitness do not corroborate the testimony of PW – 1 (Victim) in respect of assault or manhandling. Admittedly, the previous Crime has been registered at the instance of the present Applicant against the first Informant (Victim) with the same Police Station. The substantive sentence imposed by the learned Trial Court against the Applicant is that of five [05] years. The Applicant was on bail during trial. The Appeal is admitted today itself.

There is no possibility that, the Appeal would be heard in near future. In this view of the matter, I am inclined to pass the following order:

ORDER

- [I] Criminal Application is allowed.
- [II] The substantive sentence imposed upon the Applicant, namely, Datta Mohan Tupe, by the learned Sessions Judge, Osmanabad, vide Judgment and Order dated 20/11/2025, passed in Sessions Case No.38/2024, is hereby suspended till the final disposal of the Appeal.
- [III] The Applicant be released on bail on furnishing P.R. bond of Rs.15,000/- [Rupees Fifteen Thousand] with one surety in the like amount.
- [IV] The Applicant shall co-operate in early disposal of the Appeal.
- [V] Bail before the Trial Court.
- [VI] For this Application, fees of the learned Advocate Ms. Anagha Vasantrao Rotte appointed to represent the Applicant is quantified at Rs.15,000/- [Rupees Fifteen Thousand], which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad.
- [VII] Criminal Application stands disposed off accordingly.

[NEERAJ P. DHOTE, J.]

Sameer/December-2025