

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Interim Application No.3543 of 2024

In

Revision Application No.305 of 2024

Yuvraj @ Bandu Dadasaheb Ingavale

Age: 24 years, Occu./Labour,

R/o. Nigadi Khurd, Tal. Jath,

Dist. Sangli.

(Presently at Yerwada Jail, Pune)

... Applicant

Versus

State of Maharashtra

Through Jath Police Station,

Dist.: Sangli.

... Respondent

Mr Aniket Nikam, along with Mr Sumit Patil i/by Amit Icham,
for the applicant.

Mr Yogesh Dabke, APP, for the respondent/ State.

Coram:R.N.Laddha, J.

Date: 13 March 2025.

P.C.:

The applicant (accused No.2) faced trial in Sessions Case No.137 of 2008 before the Assistant Sessions Judge, Sangli, for the offences punishable under Sections 323, 325, 307 and 504 read with 34 of the Indian Penal Code ('IPC'). By a judgment and order dated 22 June 2010, the applicant was acquitted of the offence punishable under Section 504 IPC and convicted for the offences punishable under Sections 323, 325 and 307 read with 34 IPC. The applicant was sentenced as follows: (i)

rigorous imprisonment for seven years and a fine of Rs.5,000/- (with default stipulations) for the offence punishable under Sections 307 read with 34 of the IPC, and (ii) rigorous imprisonment for five years and a fine of Rs.5,000/- (with default stipulations) for the offence punishable under Sections 325 read with 34 of the IPC. No separate sentence was awarded for the offence punishable under Sections 323 read with 34 of the IPC. All sentences were directed to run concurrently.

2. Aggrieved thereby, the applicant preferred an appeal bearing No.202 of 2010 before the Sessions Judge, Sangli. By a judgment and order dated 27 February 2024, the appellate Court confirmed the applicant's conviction under Sections 307 read with 34 of the IPC and modified the sentence under Sections 323 read with 34 of the IPC, thereby directing the applicant to undergo rigorous imprisonment for one year and a fine of Rs.1,000/- (with default stipulations). Further, the appellate Court acquitted the applicant of the offence punishable under Sections 325 read with 34 of the IPC.

3. Dissatisfied, the applicant approached this Court in revision and, by the present application, seeks suspension of sentence and release on bail.

4. Mr Aniket Nikam, the learned Counsel appearing on

behalf of the applicant, highlighting the deficiencies in the prosecution case, contends that the testimony of the prosecution witnesses lacks credibility and fails to inspire confidence. The investigating agency recorded the statement of PW-7 after four days. The key allegations do not align with the medical evidence. The learned Counsel submits that the applicant was on bail during trial. The applicant was taken into custody on 27 February 2024 and has been languishing in jail since then. The applicant is ready to abide by any conditions imposed by this Court, including not entering the jurisdiction of Jath Police Station. Mr Nikam, in support of his contentions, relies on *Kiran Kumar v. State of M.P., (2001) 9 SCC 211*.

5. Mr Yogesh Dabke, the learned Additional Public Prosecutor representing the respondent/State, opposing the applicant's request, refers to the seriousness of the charge on which the applicant has been convicted and argues that the evidence on record strongly supports the prosecution's case and does not warrant the grant of bail.

6. This Court has given anxious consideration to the rival contentions and perused the records.

7. In *Bhagwan Rama Shinde Gosai v. State of Gujarat, (1999) 4 SCC 421*, the Hon'ble Supreme Court observed as follows:

“3. 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 can be considered by the appellate court liberally unless there are exceptional circumstances. Of course, if there is any statutory restriction against suspension of sentence it is a different matter. Similarly, when the sentence is life imprisonment the consideration for suspension of sentence could be of a different approach. But if for any reason the sentence of a limited duration cannot be suspended every endeavour should be made to dispose of the appeal on merits more so when a motion for expeditious hearing of the appeal is made in such cases. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time. When the appellate court finds that due to practical reasons such appeals cannot be disposed of expeditiously the appellate court must bestow special concern in the matter of suspending the sentence so as to make the appeal right, meaningful and effective. Of course, appellate courts can impose similar conditions when bail is granted.”

8. The applicant is directed to undergo maximum imprisonment for a period of seven years. Earlier also, the applicant preferred an application under Section 389 of CrPC, which was rejected; however, the applicant was granted liberty to renew his request after three months if the revision application remained unheard. The alleged offence occurred in 2008. There appear to be significant gaps in the investigation. While this Court acknowledges the arguments presented by the

learned APP regarding the seriousness of the offence and the current post-conviction stage of the proceedings, it is essential to recognise that the applicant has already undergone imprisonment of over one year. The revision has been filed in 2024 and is unlikely to be heard in the near future due to the pendency of older revision applications. The co-accused have already been enlarged on bail. In these circumstances, a case is made out for the grant of suspension of sentence and release on bail. Hence, the following order:

ORDER

- (i) The sentence imposed upon the applicant vide judgment and order dated 22 June 2010 passed by the Assistant Sessions Judge, Sangli, in Sessions Case No.137 of 2008, and modified by the judgment and order dated 27 February 2024 passed by the Sessions Judge, Sangli, in Criminal Appeal No.202 of 2010, stands suspended during the pendency of the revision.
- (ii) The applicant shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.
- (iii) The applicant shall refrain from entering into the jurisdiction of Jath Police

Station.

(iv) The applicant shall inform and update the investigating officer of his residential and contact details.

9. The interim application stands disposed of accordingly.

[R. N. Laddha, J.]