

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

Interim Application No. 638 of 2025

in

Criminal Appeal No. 920 of 2019

Santosh Gaurav Zende

Age 27 years, R/at. Room No.12,

Near Nurani Majid Laxminagar,

Yerawada, Pune – 6.

... Applicant

versus

The State of Maharashtra

Through Yervada Police Station,

Pune, Maharashtra.

... Respondent

Mr Sandip Satkar, a/w Mr Chaitanya Narvekar, for the applicant.

Mr Arfan Sait, APP, for the respondent/ State.

Coram: R.N. Laddha, J.

Date: 20 March 2025

P.C.:

Heard Mr Sandip Satkar, the learned Counsel appearing on behalf of the applicant, and Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/ State.

2. By the present application, the applicant (accused No.2) seeks suspension of sentence and release on bail. The applicant

was tried for the offences punishable under Sections 397 read with 34 of the Indian Penal Code before the Additional Sessions Judge, Pune, in Sessions Case No.50 of 2014. By a judgment and order dated 15 May 2019, the applicant stood convicted and sentenced to suffer rigorous imprisonment for seven years.

3. The learned Counsel for the applicant, highlighting the alleged shortcomings of the prosecution case, argues that the testimony of the prosecution witnesses lacks credibility and fails to inspire confidence. He submits that the sentence imposed upon the applicant is short and that the applicant has already served more than half of the sentence. Further, the applicant was on bail during the pendency of the trial. The applicant is willing to cooperate with the appeal proceedings and comply with any conditions this Court imposes if released on bail.

4. The learned Additional Public Prosecutor representing the respondent/ State opposes the applicant's request for bail by emphasising the seriousness of the charge against the applicant. He asserts that the evidence on record, especially the informant's testimony, strongly backs the prosecution's case and does not justify granting bail.

5. In *Bhagwan Rama Shinde Gosai Vs State of Gujarat*¹, the

¹ (1999) 4 SCC 421.

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.”

6. Similarly, in ***Atul Vs State of Madhya Pradesh***², the Hon'ble Supreme Court observed as follows:

“Before parting with order, we must note here that notwithstanding several decisions of this Court holding that when there is a fixed term sentence and especially when the appeal is not likely to be heard before completing entire period

² Criminal Appeal No.579 of 2024 dated 2 February 2024.

of sentence, normally suspension of sentence and bail should be granted. We find that in several deserving cases, bail is being denied. Such cases should never be required to be brought before this Court.”

7. From a perusal of the records, it appears that the maximum sentence imposed upon the applicant is seven years, out of which the applicant has already served four years and seven months. The alleged incident occurred in August 2013. The appeal challenging the conviction has been filed in 2019 and is unlikely to be heard in the near future. If, at this juncture, the relief is denied, the applicant is likely to complete the entire term of the sentence before the appeal is heard. Moreover, the co-accused has already been released on bail. In these circumstances, a case is made out for grant of suspension of sentence and grant of bail during the pendency of the appeal. Hence, the following order:

ORDER

- (i) The sentence imposed upon the applicant vide judgment and order dated 15 May 2019 passed by the Sessions Court at Pune, in Sessions Case No.50 of 2014, stands suspended during the pendency of the appeal.
- (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.

8. The interim application stands disposed of accordingly.

(R.N. Laddha, J.)