

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

**Interim Application No.762 of 2025
In
Criminal Revision Application No.60 of 2025**

Jagdish Hemant Wagh
Age: 38 years, Occ. Business,
R/o. H.No.1334, Khadkali,
Bhadrakali, Nashik, Dist. Nashik.
Presently lodged at
Central Prison, Nashik

... Applicant

versus

The State of Maharashtra
Through : DGP, Nashik.

... Respondent

Mr Aditya Parmar, a/w. Mr Naved Mulla, i/b. Manish Gaikwad,
for the applicant.

Ms Manisha R Tidke, APP, for the respondent/ State.

Coram: R.N. Laddha, J.

Date: 24 March 2025.

P.C.:

By this application, the applicant (accused No.2) seeks suspension of sentence and his release on bail. The applicant faced trial in Regular Criminal Case No.326 of 2013 before the Court of Chief Judicial Magistrate, Nashik, for the offences punishable under Sections 385 read with 34 of the Indian Penal Code ('IPC'). By a judgment and order dated 29 June 2019, the

applicant stood convicted and sentenced to suffer rigorous imprisonment for one year and pay a fine of Rs.2,000/-, with default stipulations.

2. Aggrieved thereby, the applicant filed an appeal bearing No.166 of 2019 before the Sessions Court at Nashik. By a judgment and order dated 23 January 2025, the appellate Court modified the sentence imposed upon the applicant from rigorous imprisonment of one year to simple imprisonment of six months. Dissatisfied, the applicant preferred a revision before this Court.

3. Mr Aditya Parmar, the learned Counsel appearing on behalf of the applicant, highlighting the alleged shortcomings in the prosecution case, contends that the testimonies of the prosecution witnesses lack credibility and fail to inspire confidence. The applicant has undergone imprisonment of two months out of the six-month term. Further, the applicant was on bail during the trial and the appeal. The learned Counsel submits that the applicant is ready to comply with any conditions this Court imposes, including not to contact the informant till the disposal of the revision, and cooperate fully with the revision proceedings if released on bail.

4. Ms Manisha Tidke, the learned Additional Public

Prosecutor representing the respondent/ State, opposing the applicant's request, refers to the seriousness of the charge under which the applicant is convicted and submits that the evidence on record strongly supports the prosecution's case and does not warrant the applicant's release on bail.

5. This Court has given anxious consideration to the rival contentions.

6. It is a well-settled position in law that the revisional Court may leniently consider a convict's request for suspension of the sentence in cases where the term of the sentence is fixed except in exceptional circumstances or where restrictions under any statute apply. If the sentence imposed cannot be suspended, the revisional Court must endeavour to adjudicate the revision on merits, especially in cases where there is a plea for expeditious resolution. Failing to do so could jeopardise the applicant's statutory rights due to the passage of time. In situations where the revisional Court recognises that practical circumstances may hinder the prompt resolution of the revision, it becomes essential for the Court to exercise heightened diligence in deliberating on sentence suspension. This ensures that the revision process remains viable, meaningful, and effective. Additionally, while granting bail, the revisional Court has the discretion to impose certain conditions. A profitable reference

in this regard can be made to the decision in *Bhagwan Rama Shinde Gosai Vs State of Gujarat*¹.

7. Upon perusing the records, it appears that the sentence imposed upon the applicant is a short one. The alleged incident occurred in 2013. While this Court acknowledges the arguments presented by the learned APP regarding the gravity of the offence and the post-conviction stage of the proceedings, it is imperative to consider that the present revision is filed in 2025 and is unlikely to be heard in the near future due to the pendency of the older revisions. Further, the applicant has already undergone imprisonment for two months out of the six-month sentence. If, at this stage, relief is denied, the applicant is likely to serve the entire term. Furthermore, learned Counsel for the applicant, on instructions, states that the applicant will not contact the informant in any manner. Moreover, there is nothing on record to suggest that exceptional circumstances exist to justify the refusal of the relief prayer for. In these circumstances, a case for suspension of sentence is made out. Hence, the following order:

ORDER

- (i) The sentence imposed upon the applicant vide judgment and order dated 29

¹ (1999) 4 SCC 421

June 2019 passed by the Chief Judicial Magistrate, Nashik, in RCC No.326 of 2013, and modified by the judgment and order dated 23 January 2025 passed by the Additional Sessions Judge, Nashik, in Criminal Appeal No.166 of 2019, 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 not contact the informant in any manner whatsoever.

8. The interim application stands disposed of accordingly.

(R.N. Laddha, J.)