

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

Interim Application No. 842 of 2025

in

Criminal Appeal No. 211 of 2025

Moin Mohammad Ansari

@ Moin Madhu Ansari

Age 42 years, Occ. Service,

R/at. Rashmi Utsav, E/104,

Nityanand Nagar, Mira Road East,

Thane, Maharashtra.

... Applicant

versus

The State of Maharashtra

(Through Kashmiri Police Station

in C.R. No.I-51/2008)

... Respondent

Mr Shreerat Kamath, along with Ms Puja Yadav, for the applicant.

Mr VN Sagare, APP, for the respondent/ State.

PSI Vaibhav Dhanawade, Kashmiri Police Station, is present.

Coram: R.N. Laddha, J.

Date: 4 April 2025

P.C.:

The applicant faced trial in Sessions Case No.341 of 2011 before the Additional Sessions Judge, Thane, for the offences punishable under Sections 307, 397 and 342 of the Indian

Penal Code ('IPC'). By the judgment and order dated 16 December 2024, the trial Court convicted the applicant and sentenced him as follows: (i) rigorous imprisonment of seven years and a fine of Rs.500/- (with default stipulations) for the offence punishable under Section 307 of the IPC, (ii) rigorous imprisonment of six months and a fine of Rs.500/- (with default stipulations) for the offence punishable under Section 342 of the IPC, (iii) rigorous imprisonment of seven years for the offence punishable under Section 397 of the IPC. These sentences were to run concurrently.

2. Aggrieved thereby, the applicant preferred an appeal before this Court and, by the present application, seeks suspension of sentence and release on bail.

3. Mr Shreerat Kamath, the learned Counsel appearing on behalf of the applicant, highlights the alleged deficiencies in the prosecution case and argues that the testimonies of the prosecution witnesses lack credibility and fail to inspire confidence. He points out that during the evidence, the alleged weapon was not shown to the complainant and the panch witnesses. Additionally, the panch witness's testimony indicates that the seizure panchanama was prepared at the police station, which raises concerns about the validity of the weapon's

seizure. Furthermore, there was no recovery of currency, and the panch witness did not identify the seized credit card and mobile phone. The medical officer's evidence would reveal that the injuries sustained were simple and not on the vital parts of the body. The learned Counsel emphasises that there are several contradictions in the evidence of the witnesses. He further submits that the applicant was on bail throughout the trial and, if released on bail, would comply with any conditions imposed by this Court and cooperate with the appeal proceedings.

4. Mr VN Sagare, the learned Additional Public Prosecutor representing the respondent/ State, opposing the applicant's prayer, 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 case and does not warrant the applicant's release on bail.

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

6. In ***Narcotic Control Bureau v. Lakhwinder Singh***¹, the Hon'ble Supreme Court observed as follows:

"5.Therefore, in our view, if a case is made out for the grant of suspension of sentence and/or bail in deserving cases on merits, the Court is not

¹ 2025 INSC 190

powerless to grant relief of suspension of sentence and bail pending an appeal, even if an accused has not undergone half of the sentence. There cannot be a rule of thumb that a convict cannot be released on bail pending an appeal against conviction unless he has undergone half of substantive sentence.

6. In the case of fixed-term sentences, if the Courts start adopting a rigid approach, in a large number of cases, till the appeal reaches the stage of the final hearing, the accused would undergo the entire sentence. This will be a violation of the rights of the accused under Article 21 of the Constitution. Moreover, it will defeat the right of appeal.”

7. Upon a cursory reading of the records, it appears that there are significant gaps in the investigation and material contradictions that go to the root of the prosecution's case. The alleged weapon in question was not shown and identified by the complainant or the panch witness during the evidence. The injuries were simple in nature and not on the vital parts of the body. While this Court acknowledges the arguments put forward by the learned APP regarding the seriousness of the offence and the post-conviction stage of the proceedings, it is essential to recognise that the present appeal has been filed in 2025 and is unlikely to be heard in the near future due to the pendency of the older appeals. Moreover, nothing is on record

to suggest that exceptional circumstances exist to justify the refusal of the relief prayed for. Considering the nature of the accusations and the material on record, the applicant is entitled to the benefit of suspension of sentence and release on bail. Hence, the following order:

ORDER

(i) The sentence imposed upon the applicant vide the judgment and order dated 16 December 2024 before the Additional Sessions Judge, Thane, in Sessions Case No.341 of 2011, 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.)