

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

**Interim Application No. 959 of 2025
in
Criminal Revision Application No. 93 of 2025**

Machhindra Narayan Khairnar
Age 44 years, Occ. Agriculturist,
R/o. Malgaon, Tal. Malegaon
District Nashik. ... Applicant

versus

The State of Maharashtra
(At the instance of Malegaon Taluka
Police Station) ... Respondent

Mr Bhushan Raut, a/w Mr Sachin Mane i/b Kothalikar Tejas
Dinesh, for the applicant.

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

**Coram: R.N. Laddha, J.
Date: 28 March 2025**

P.C.:

Heard Mr Bhushan Raut, the learned Counsel appearing
on behalf of the applicant, and Mr Yogesh Dabke, the learned
Additional Public Prosecutor representing the respondent/
State.

2. The applicant faced trial in Regular Criminal Case No.997
of 2007 before the Additional Chief Judicial Magistrate,

Malegaon, Nashik, for the offences punishable under Sections 323, 325, 326, 427, 504 and 506 of the Indian Penal Code ('IPC'). By a judgment and order dated 21 June 2018, the applicant was acquitted of the offences punishable Sections 326, 427, 504 and 506 of IPC and convicted for the offences punishable under Section 325 of IPC. The applicant was sentenced to suffer simple imprisonment for three years and pay a fine of Rs.1,000/-, with default stipulations.

3. Aggrieved thereby, the applicant preferred an appeal bearing No.45 of 2018 before the Additional Sessions Judge, Nashik, which was dismissed by a judgment and order dated 6 February 2025. Dissatisfied, the applicant preferred a revision before this Court and, by the present application, seeks suspension of the sentence and release on bail.

4. The learned Counsel appearing on behalf of the applicant highlights the alleged shortcomings in the prosecution case and contends that the testimony of the prosecution witnesses lack credibility and fail to inspire confidence. He submits that the inconsistency in the evidence of PW-1, PW-2, PW-3 and PW-9 creates doubt as to the spot of the alleged incident. Further, the testimony of PW-3 would reveal that the alleged weapon was not seized in the presence of PW-3. The learned Counsel submits that the applicant was on bail during the trial and the

appeal. The applicant is ready to comply with any conditions imposed by this Court and cooperate with the revision proceedings if released on bail.

5. The learned Additional Public Prosecutor representing the respondent/ State, opposing the applicant's request, argues that the offence is grave and the evidence on record strongly supports the prosecution case.

6. This Court has given anxious consideration to the rival contentions canvassed across the Bar.

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. Upon perusing the records, it appears that the maximum period of imprisonment imposed upon the applicant is three years. The sentence is a short one. The alleged incident occurred in September 2007. There appear to be contradictions in the evidence of the prosecution witnesses. The applicant was on bail during the trial and appeal. The revision is filed in 2025 and is unlikely to be heard in the near future due to the pendency of the older revision applications. Considering the allegations, nature of the offence and the sentence imposed, this Court deems it appropriate to suspend the applicant's sentence and release him on bail during the pendency of the revision. Hence, the following order:

ORDER

(i) The sentence imposed upon the applicant vide judgment and order dated 21

June 2018 passed by the Additional Chief Judicial Magistrate, Malegaon, Nashik, in Regular Criminal Case No.997 of 2007, and confirmed by the judgment and order dated 6 February 2025 passed by the Additional Sessions Judge, Nashik, in Criminal Appeal No.45 of 2018, 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.

9. The interim application stands disposed of accordingly.

(R.N. Laddha, J.)