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

**REVISION APPLICATION NO. 303 OF 2025
WITH
INTERIM APPLICATION NO.2029 OF 2025
IN
CRIMINAL REVISION APPLICATION NO. 303 OF 2025
WITH
INTERIM APPLICATION NO. 2338 OF 2025
IN
CRIMINAL REVISION APPLICATION NO.303 OF 2025**

Mohhamad Hussain @ Shahrulkh Abdul
Khalik Pathan ... Applicant
V/s.

State of U.T. of Dadra and Nagar Haveli
and Daman and Diu and anr. ... Respondents

Mr. Hitesh Phulwani, for the applicant.

Mrs.Mahalakshmi Ganapathy, APP for State.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 11, 2025

P.C.:

Interim Application No. 2338 OF 2025.

1. The present application is moved by the applicant seeking suspension of the sentence imposed upon him. The Trial Court, after holding the applicant guilty for an offence punishable under Section 392 read with Section 34 of the Indian Penal Code, imposed maximum punishment of five years' rigorous imprisonment. The said conviction and sentence came to be

confirmed by the Appellate Court in Criminal Appeal. It is brought on record that out of the maximum period of five years, the applicant has already undergone imprisonment for a period of four years and nine months. Thus, what remains to be served is only about three months of the sentence.

2. At this stage, the Court cannot lose sight of the settled principle of law that while considering an application for suspension of sentence, the period of sentence already undergone by the applicant has to be taken into account. The Supreme Court has time and again held that where a substantial portion of the sentence has been served, the balance of convenience tilts in favour of suspending the remaining sentence, more particularly when the appeal is not likely to be decided in the near future.

3. In the present case, the applicant has undergone almost the entire sentence. The remaining sentence is only a fractional part, and if the application is not allowed, by the time the appeal is taken up for final hearing, the applicant may complete his sentence, rendering the appeal itself infructuous. Consideration of such a circumstance is necessary to avoid miscarriage of justice.

4. Hence, in the facts of the case, this Court is of the opinion that a case for suspension of the sentence is clearly made out. Accordingly, the execution of the substantive sentence imposed by the judgment and order dated 29 October 2021, passed by the Chief Judicial Magistrate, Daman in R.C.C. No. 09 of 2021, and confirmed by the learned Sessions Judge in Criminal Appeal No. 3 of 2022 by judgment and order dated 30 December 2024, is

suspended.

5. Hence, following order is passed:

i) The applicant is directed to be released on regular bail in connection with R.C.C. No. 09 of 2021 for offences punishable under Section 392 r/w 34 of Indian Penal Code, upon furnishing a personal bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

(a) The applicant shall report to the concerned Police Station once in three months, specifically on the 1st and of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(b) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(c) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

6. The Interim Application stands disposed of.

(AMIT BORKAR, J.)