IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Interim Application No.4762 of 2025
In
Revision Application No.538 of 2025

Manikrao Shivaji Kokate
Age: 68 yrs. Occ: Agriculturist/
Advocate,
Residing at, Somthane, Taluka Sinner,
District Nashik. … Applicant.

Vs.

The State of Maharashtra
Through Senior Inspector of Police,
Sarkarwada Police Station, Nashik … Respondent.

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The State of Maharashtra
Through Senior Inspector of Police,
Sarkarwada Police Station, Nashik. … Respondent.

Mr Ravi Kadam, Senior Advocate a/w Mr Shrishailya Deshmukh, Mr Aniket Nikam, Mr Nimish Parekh for the applicant.

Mrs Mankuwar Deshmukh, Public Prosecutor, a/w Mr Shreekant Gavand, APP, for the respondent/State.

Mr Manoj Mohite, Senior Advocate i/by Ankit Patil & Co.; Mr Akhilesh Dubey i/by Mr Ashish Gabhale and Mr Akhilesh Dubey i/by Jay & Co. for the Intervenors.

API Narendra Baisane, Sarkarwada Police Station, Nashik City.

Coram : R.N.Laddha, J.
Date : 19 December 2025.

P.C. :

Heard the learned Counsel for the parties.

2. The present applications arise from the following factual matrix. On 13 October 1995, the First Information Report (FIR) No.350 of 1995 came to be registered at Sarkarwada Police Station, Nashik, at the instance of the Additional Collector and Competent Authority (ULC), Nashik, against the applicant (accused No.1) and three other accused persons, for offences punishable under Sections 420, 465, 467, 468, 471, and 474 read with 34 of the Indian Penal Code (‘IPC’).

3. It is alleged that during the period between 1989 and 1992, the State Government implemented a housing scheme for economically weaker sections, with eligibility restricted to individuals having an annual income not exceeding Rs.30,000/-. According to the prosecution, the applicant, in connivance with the co-accused, submitted false income affidavits, fabricated ration cards, and other forged documents in order to unlawfully obtain residential flats under the said scheme.

4. It is further alleged that although the applicant was already the owner of one flat, he procured two additional flats through benami transactions in the names of co-accused (accused Nos.3 and 4). The prosecution additionally alleges that the applicant amalgamated these three flats, along with another flat owned by accused No.2, into a single residential unit, thereby violating Rule 6 of the terms and conditions governing allotment under the scheme.

5. Pursuant to the aforesaid FIR, on 25 March 1997, a charge sheet was filed before the Additional Chief Judicial Magistrate, Nashik. The applicant (accused No.1) faced trial

in RCC No.56 of 1997 before the Court of the Additional Chief Judicial Magistrate, Nashik, for the aforementioned offences. By a judgment and order dated 20 February 2025, the learned trial Court convicted the applicant and sentenced him as follows: (i) to suffer rigorous imprisonment of two years and pay a fine of Rs.10,000/- (with default stipulations) for the offence punishable under Sections 420 read with 34 of the IPC; (ii) to suffer rigorous imprisonment of two years and pay a fine of Rs.10,000/- (with default stipulations) for the offence punishable under Sections 465 read with 34 of the IPC; (iii) to suffer rigorous imprisonment of two years and pay a fine of Rs.10,000/- (with default stipulations) for the offence punishable under Sections 467 and 471 read with 34 of the IPC; (iv) to suffer rigorous imprisonment of two years and pay a fine of Rs.10,000/- (with default stipulations) for the offence punishable under Sections 468 read with 34 of the IPC; and (v) to suffer rigorous imprisonment of two years and pay a fine of Rs.10,000/- (with default stipulations) for the offence punishable under Sections 474 read with 34 of the IPC. These sentences were directed to run concurrently.

6. Aggrieved thereby, the applicant preferred a criminal

appeal bearing No.48 of 2025 before the Sessions Court, Nashik. By a judgment and order dated 16 December 2025, the learned Additional Sessions Judge, Nashik, partly allowed the appeal. The appellate Court acquitted the applicant of the offences punishable under Sections 467 and 474 of the IPC and confirmed and upheld the applicant's conviction under Sections 420, 465, 468, and 471 read with 34 of the IPC.

7. Dissatisfied, the applicant approached this Court by filing a revision application, and by way of the present applications, seeks a stay on the conviction and the suspension of the sentence imposed and release on bail.

8. Mr Ravi Kadam, the learned Senior Counsel appearing on behalf of the applicant, submits that the applicant is a member of the legislative assembly and was elected in the general elections held in 2024. The applicant holds the office of Cabinet Minister for Sports and Youth Development and previously represented the Sinnar Assembly Constituency from 1999 to 2004, 2004 to 2009, 2009 to 2014, and 2019 to 2024. The applicant has a long-standing political career spanning over 35 years. It is

contended that the prosecution's case suffers from material inconsistencies and significant evidentiary shortcomings. The testimonies of the prosecution witnesses are fraught with contradictions, omissions and discrepancies, rendering them unreliable and insufficient to establish the applicant's guilt beyond a reasonable doubt. The evidence, when considered as a whole, does not inspire confidence in its reliability.

9. The main thrust of the arguments of the learned Senior Counsel is that the prosecution witnesses failed to substantiate the allegation that the applicant's income was more than Rs.30,000/-, and the Courts below erroneously proceeded to consider the applicant's income as on 5 October 1994, i.e., when the flat was allotted to the applicant. Assuming *arguendo,* the case of the prosecution at its face value, it is contended that no offence of forgery or cheating is made out. There is no material on record to demonstrate that the eligibility for the allotment shall be the date of the actual allotment of the flat, not the date of the application. There was no dishonest intention on the part of the applicant from the outset.

10. Inviting the attention of this Court to Section 8(3) of the Representation of the People Act, 1951, Mr Kadam submits that the impugned order of conviction attracts the applicant's disqualification as a Member of the Legislative Assembly, which, if not stayed, would affect the members of the constituency in remaining unrepresented. Not only would the applicant suffer prejudice, but the electorate at large, having exercise their franchise in favour of the applicant and reposed confidence in his ability to represent their constituency, would likewise suffer irreparable harm. It is further submitted that if the conviction is not stayed, the applicant will lose his seat, and if acquitted later on, the harm caused to the applicant could not be compensated in terms of money or otherwise, rendering the present circumstances an exceptional case.

11. The learned Senior Counsel tenders a copy of the medical report on record and submits that the applicant is presently under inpatient care at the hospital, having been admitted to a serious cardiac ailment and underwent coronary angiography, which necessitates continuous medical supervision and treatment.

12. Reliance is placed on the following decisions : (i) Afjal Ansari vs. State of Uttar Pradesh, (2024) 2 SCC 187; (ii) Mohammed Ibrahim vs. State of Bihar, (2009) 8 SCC 751; (iii) Delhi Race Club (1940) Limited vs. State of UP, (2024) 10 SCC 690; (iv) Rama Narang vs. Ramesh Narang, (1995) 2 SCC 513; (v) Ravikant S Patil vs. Sarvabhouma S Bagali, (2007) 1 SCC 673; (vi) Navjot Singh Sidhu vs. State of Punjab, (2007) 2 SCC 574; (vii) Sanjay Dutt vs. State of Maharashtra, (2009) 5 SCC 787; (viii) Lily Thomas vs. Union of India, (2013) 7 SCC 653; (ix) Lok Prahari through its General Secretary vs. Election Commission of India, (2018) 18 SCC 114; (x) Rahul Gandhi vs. Purnesh Ishwarbhai Modi, (2024) 2 SCC 595; (xi) K Ponmudi alias Deivasigamani, 2024 SCC OnLine SC 600; (xii) Omprakash @ Bacchu Babarao Kadu vs. State of Maharashtra, 2025:BOM-AS:12729; (xiii) Sayed Mohammed Noorul Ameer vs. UT Administration of Lakshadweep represented by its Standing Counsel, High Court of Kerala and Another, 2023 SCC OnLine Ker 604; and (xiv) Ikba vs. State of Maharashtra, 2024 SCC OnLine Bom 43.

13. On the other hand, Ms Mankuwar Deshmukh, the learned Public Prosecutor representing the respondent/

State, opposes the applicant's request. It is submitted that, notwithstanding the applicant's sound financial position, he dishonestly availed himself of the benefits of a State Government welfare scheme intended exclusively for persons belonging to economically weaker sections. By misrepresenting his eligibility and securing allotment of flats under the said scheme, the applicant not only abused and subverted a benevolent public policy but also unlawfully enriched himself at the cost of genuinely deserving beneficiaries. It is further submitted that such conduct amounts to a grave breach of public trust and a blatant misuse of public resources.

14. Ms Deshmukh further submits that the evidence brought on record, particularly the cogent and consistent testimony of PW-8 read in conjunction with the documentary evidence relied upon by the prosecution, conclusively establishes the guilt of the applicant. The findings of conviction are well-reasoned and firmly founded on the material on record, leaving no scope for doubt.

15. The attention of this Court is also invited to the communication issued by the Housing & Special Assistance

Department, Mumbai, dated 29 September 1994, which, according to the learned Public Prosecutor, has not been complied with by the applicant. It is submitted that the stipulation enumerated in this communication is not a mere procedural formality but a substantive condition precedent, integral to the determination of eligibility under the relevant housing scheme. The entire allotment process is predicated upon the principle of transparency and *bona fide* disclosure and any deviation therefrom strikes at the root of the integrity of the scheme. It is further submitted that the obligation to disclose income particulars was of a continuing nature. Even assuming, without admitting, that the applicant had submitted an income declaration at the time of the initial application he remained under a continuing duty to disclose any subsequent increase in income prior to the allotment being finalised. The applicant, in the present case, willfully omitted to disclose his income, defeating the very object of the stipulation contained in the terms and conditions of the allotment and compromising the fairness and transparency of the allotment process.

16. It is submitted that the applicant, in the allotment form specifically declared his monthly income to be

Rs.2,500/- categorically stating that the said income was derived solely from the legal profession. This declaration was made with the intent to qualify under the income based eligibility criteria prescribed under the applicable norms governing the allotment. However, a perusal of the subsequent affidavit filed by the applicant reveals a material contradiction. In this sworn statement, the applicant has stated that the same monthly income of Rs.2,500/- was derived from two distinct sources i.e. the legal profession and the agricultural activities. It is further submitted that in the original allotment form, the applicant had consciously struck off the reference to agricultural income and confined his declaration to income from the legal profession alone. It is further submitted that such a shifting stand, particularly in sworn pleadings, constitutes a material inconsistency that directly impinges upon the applicant's *mala fide* and the veracity of his disclosures. It is of considerable significance that the applicant has, at no point, denied the existence of income from agricultural land. The factum of agricultural income thus stands admitted by conduct and by the applicant's failure to deny the same. In such circumstances, the applicant was under a legal and moral obligation to disclose the said income *ab initio* and, at the very least, prior to the finalisation of the allotment.

17. It is submitted that by projecting a selective and incomplete income profile in the application form for allotment and subsequently attempting to modify the same through an affidavit, the applicant has sought to circumvent the eligibility criteria. Such conduct vitiates the sanctity of the allotment process. According to the learned Public Prosecutor, the applicant's case does not disclose any exceptional or compelling grounds so as to justify the relief of suspension of conviction.

18. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

19. Before delving into the merits of these applications, it is imperative to note that the applicant is an elected member of the legislative assembly and holds the office of Cabinet Minister for Sports and Youth Development. Being vested with a constitutional office, the applicant is under a solemn obligation to uphold and exemplify the core tenets of

democratic governance, and to execute the functions of the office with utmost integrity, impartiality, and an abiding commitment to the public trust. This fiduciary position demands a heightened standard of probity and accountability, serving as a lodestar for ethical governance and public service. The electorate's right to representation, though fundamental, is not absolute and must yield to the imperative of upholding legal accountability and preserving institutional integrity.

20. The applicant was held guilty and convicted by the trial Court, and the said conviction, with certain modifications, has been affirmed by the Sessions Court in the appeal. It is a settled position in law that a convict is a person who has been adjudged guilty of a criminal offence by a Court of competent jurisdiction. Such adjudication follows a judicial finding that the charges levelled against the person have been duly proved. Consequently, a prayer for seeking stay of conviction amounts to a request for suspension of the operative consequences flowing from the judicial declaration of guilt. It has been consistently held by the Apex Court that, save in exceptional circumstances, an appellate/revisional Court ought not to stay the conviction,

although it may suspend the execution of the sentence.

21. In the present case, the bone of contention falls on whether, at the relevant time, the applicant's income was more than Rs.30,000/-. Upon a perusal of the records, particularly the testimony of Balasaheb Karbhari Narode, the accountant at the Kopargaon Sahakari Sakhar Karkhana (PW-8), it appears that the applicant used to supply sugarcane to the sugar factory and derived significant income in his account from the supplied goods. His testimony in cross-examination remains unshaken, and nothing is elicited in the cross-examination to disbelieve his version. A conjoint reading of the oral testimonies and the documentary evidence *prima facie* indicates the applicant's involvement in the crime. The applicant has, at no point, denied the existence of income from agricultural land. Furthermore, there has been a discrepancy in the application filed by the applicant at the relevant time and also an affidavit that he filed subsequently.

22. Furthermore, the decision of the Hon'ble Supreme Court in *Afjal Ansari (supra),* relied upon by the applicant, would not render the applicant any assistance and is

distinguishable from the factual matrix of the present case. In *Afjal Ansari (supra)*, the Hon'ble Supreme Court dealt with a situation where the crime for which the appellant therein was convicted was solely based on another crime in which the appellant therein had already been acquitted. In such circumstances, the conviction of the appellant therein came to be suspended, and the appeal was expedited. However, in the matter at hand, there appears to be ocular as well as documentary evidence against the applicant, and the trial Court and the appellate Court appear to have examined the entire evidence and reached the conclusion that the prosecution has proved the case against the applicant beyond a reasonable doubt.

23. It is an admitted position in law that the stay of conviction is an exception and the Courts must consider the wider ramifications, including public confidence. It has been consistently emphasised that Courts must exercise extreme caution when considering a stay of conviction, doing so only in rare and exceptional cases.

24. In light of the above discussion, this Court is not inclined to accede to the submissions made on behalf of the

applicant that the present case falls under the category of 'exceptional' for staying the conviction. This Court, thus, finds no merit in the interim application bearing No.4763 of 2025 and the same is accordingly rejected.

25. It is a settled position in law that in cases where the term of the sentence is fixed, the revisional Court can leniently consider a convict's request under Section 389 of the Code of Criminal Procedure, 1973. A profitable reference in this regard can be made to the decision in *Bhagwan Rama Shinde Gosai vs. State of Gujarat, (1999) 4 SCC 421.*

26. This Court has duly considered the submissions advanced by the learned Public Prosecutor with respect to the seriousness of the offence and the fact that the matter is at the post-conviction stage. However, it is pertinent to note that the sentence awarded to the applicant is of a relatively short duration, being two years. Furthermore, the medical report placed on record indicates that the applicant is presently undergoing inpatient treatment for a serious cardiac condition, which necessitates sustained medical supervision and care.

27. In light of the above, this Court is inclined to suspend the sentence imposed upon the applicant and release him on bail during the pendency of the revision proceedings. Accordingly, the interim application bearing No.4762 of 2025 stands allowed on the following terms:

(i) The sentence imposed upon the applicant vide the judgment and order dated 20 February 2025 passed by Additional Chief Judicial Magistrate, Nashik, in RCC No.56 of 1997, and modified by the judgment and order dated 16 December 2025, passed by Sessions Court, Nashik, in Criminal Appeal bearing No.48 of 2025, stands suspended during the pendency of the appeal, subject to the applicant depositing the fine amount.

(ii) The applicant shall be released on bail upon executing a PR Bond of Rs.1,00,000/- and furnishing one or more sureties in the like amount.

28. The interim applications stand disposed of accordingly.

[R. N. Laddha, J.]