



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Criminal Appeal No. 459 of 2025

Trambak Shamrao Atram

Versus

The State of Maharashtra through Police Station Officer, Police Station
Pandharkawdha, Dist. Yavatmal

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.P.Kariya, Advocate for the appellant.

Ms. S.N.Thakur, APP for the respondent/State.

CORAM : NIVEDITA P. MEHTA, J.

DATED : 15th DECEMBER, 2025.

Today, the victim is personally present before the Court and seeks assistance of an advocate from the Legal Aid Panel to represent her.

2. Accordingly, Ms. Deepali Patil, learned Advocate from the Legal Aid Panel, is appointed to represent the non-applicant/victim in the present proceedings.

3. Learned appointed counsel for the non-applicant/victim seeks time of two weeks to file her reply.

4. The time as sought is granted.

5. Learned counsel for the applicant is directed to furnish a copy of the memo of appeal along with all

relevant documents to the learned appointed counsel for the non-applicant/victim well in advance.

Criminal Application (APPA) No. 800 of 2025

The present application is filed by the applicant under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking suspension of sentence and grant of bail pending final disposal of the criminal appeal.

2. The applicant has preferred an appeal challenging the judgment and order of conviction dated 09.07.2024 passed by the learned Special Judge-2 and Additional Sessions Judge, Kelapur in Sessions Case No. 25 of 2013, whereby the applicant has been convicted and sentenced as detailed hereinabove.

3. Learned counsel for the applicant submits that the applicant was on bail throughout the trial and has not misused the liberty so granted. It is contended that the learned Trial Court failed to appreciate the evidence in its proper perspective, despite there being material omissions and contradictions in the depositions of prosecution witnesses. It is further submitted that the applicant has already undergone incarceration for more than one and a half years and that the appeal is not likely to be heard in the near future.

4. The application is opposed by the learned Additional Public Prosecutor, who submits that the offences involved are grave and serious in nature. It is contended that releasing the applicant on bail may result in misuse of liberty and may adversely affect the confidence of the victim. It is further submitted that the learned Trial Court has correctly appreciated the evidence on record and has rightly convicted the applicant.

5. This Court has carefully considered the rival submissions and perused the record. While dealing with an application for suspension of sentence pending appeal, the appellate Court is required to consider, *inter alia*, the nature of accusation, the severity of punishment, the period of sentence imposed, the likelihood of the appeal being heard in the near future, and the possibility of the applicant absconding or misusing the liberty if released on bail.

6. It is well settled that at the stage of considering suspension of sentence, the appellate Court is not required to undertake a detailed re-appreciation of evidence. The Court is only required to examine whether a *prima facie* case is made out for suspension of sentence and whether continued incarceration would

cause undue hardship, particularly when the appeal is not likely to be decided expeditiously.

7. In the present case, it is not in dispute that the applicant was on bail throughout the trial and there is no material on record to suggest that he has misused the liberty so granted. The sentence imposed is of seven years' rigorous imprisonment, the applicant has already undergone incarceration for more than one and a half years.

8. This Court also takes note of the prevailing docket position, which indicates that the appeal is not likely to be taken up for final hearing in the immediate future. Continued detention of the applicant during pendency of the appeal, in such circumstances, would defeat the very object of the statutory right of appeal.

9. At the same time, the seriousness of the offences and the rights of the victim cannot be lost sight of. However, the same can be balanced by imposing appropriate conditions while granting suspension of sentence.

10. In view of the above, this Court is of the considered view that the applicant has made out a case for suspension of sentence. Accordingly, the application is allowed.

11. The substantive sentence imposed upon the applicant by the learned Special Judge-2 and Additional Sessions Judge, Kelapur in Sessions Case No. 25 of 2013 is hereby suspended pending final disposal of the appeal. The applicant shall be released on bail on the following conditions:

- i) The applicant shall execute a Personal Recognizance Bond in the sum of ₹25,000/- (Rupees Twenty Thousand only) with one solvent surety in the like amount, to the satisfaction of the Trial Court.
- ii) The applicant shall report before the Trial Court on the first Monday of every calendar month until further orders.
- iii) The applicant shall furnish his current residential address and mobile number to the concerned Sessions Court and shall inform the Court of any change in address or contact details forthwith.
- iv) It is clarified that the learned Additional Public Prosecutor and/or the Investigating Officer shall be at liberty to move for cancellation of bail in the event of breach of any of the aforementioned conditions or for any other sufficient cause.

The criminal application stands disposed of accordingly.

[NIVEDITA P. MEHTA, J.]