2026:BHC-AUG:54200

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2110 OF 2026
IN APEAL/442/2026

Mansoor Khan Majju Khan @
Mazar Khan Pathan,
Age 31 yrs., Occ. Labour,
R/o Bharat Nagar, Sillod,
Tq. Sillod, Dist. Chhatrapati Sambhajinagar.

... Applicant

... Versus ...

1 The State of Maharashtra
Through City Police Station, Sillod,
Tq. Sillod, Dist. Chhatrapati Sambhajinagar.

2 XYZ

... Respondent

...

Mr. A.L. Kanade, Advocate for applicant

Mr. V.V. Jahagirdar, APP for respondent No.1

Mr. R.C. Bora, Advocate for respondent No.2

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 02nd NOVEMBER, 2026

PRONOUNCED ON : 04th NOVEMBER, 2026

ORDER :

. Present application is filed for suspension of substantive sentence

for grant of regular bail as a result of judgment and order of conviction dated 03.06.2026 rendered by learned Additional Sessions Judge, Aurangabad in Sessions Case No.437/2023.

2 Learned counsel pointed out that applicant came to be held guilty for the offence under Sections 376, 354, 323, 506 of the Indian Penal Code, 1860 and sentence awarded is 10 years and to pay fine. It is submitted that there is apparently false application that initially there were allegations of outraging of modesty even crime was registered for the same, but subsequently after three days supplementary statement was given alleging rape. Therefore, charge of Section 376 of the Indian Penal Code came to be added. He submitted that concocted story has been supplied subsequently. That five witnesses are examined and according to him, victim claimed that even her husband was in the house, but still rape is alleged. That applicant was beneficiary of anticipatory bail application. Against the judgment and order of conviction appeal has been preferred, however, as the same may not be heard earlier he prays for suspension of sentence and grant of bail during its pendency.

3 The learned APP as well as learned counsel for victim both opposed the application on the ground that serious crime is proved to be committed. There is testimony of victim finding support from her husband.

Due to threats to kill the daughter, initially victim and her husband hesitated to lodge prompt First Information Report, but subsequently they mustered courage and thereafter set law into motion. That on full fledged trial conviction is recorded.

4 Heard. Perused the papers.

5 Applicant as stated above is convicted for the offence punishable under Sections 376, 354, 323 and 506 of the Indian Penal Code. Sentence as submitted is apparently 10 years. As usual, victim's testimony is important and, therefore, visited the same. Prior to it First Information Report at her behest is put to scrutiny and as pointed out indeed initially crime was registered on 14.03.2023 for the offence under Sections 354 and 323 of the Indian Penal Code, but subsequently again as submitted by virtue of supplementary statement dated 16.03.2024 i.e. after three days allegations are raised about forceful rape after gaining entry into the house. There is statement of husband also and he is also seems to be in the house at that time. Victim claims that while she was sleeping with the child, accused knocked the door and when she answered it, accused entered, made her fall, removed her clothes and had intercourse with her. At that time her husband, who was in adjoining room, happened to come there and he saw the accused indulging in the said act. Medical expert, who is examined as PW 4 in his

testimony, has stated that he did not notice any internal or external injuries. Resultantly, there seems to be an arguable case to be dealt on merits but in appeal. Therefore, relief has to be just granted. Hence, following order.

ORDER

(i) Criminal Application stands allowed.

(ii) The substantive sentence imposed on the applicant **Mansoor Khan Majju Khan @ Mazar Khan Pathan** in Sessions Case No.437/2023 by the learned Additional Sessions Judge, Aurangabad vide Judgment and order dated 03.06.2026, stands suspended till the final hearing and disposal of Criminal Appeal No.442 of 2026.

(iii) The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with two solvent sureties in the like amount.

(iv) The applicant shall not commit any criminal activity.

(v) The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

(vi) In case of two consecutive defaults on the part of the applicant to remain present before the trial, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.

(vii) Bail before the trial Court.

(ABHAY S. WAGHWASE, J.)

agd