Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.297/2026 (F)
IN
CRIMINAL APPEAL NO.296/2026 (F)

SHRI. YASIN KASIM SHAIKH.
Son of Kasim Shaikh, 53 Years of
Age Widower, Indian National,
Driver, Resident of House No.
20/636, Near Lande Hospital,
Ichalkaranji, Kolhapur,
Maharashtra, Goa. ... APPLICANT

Versus

STATE OF GOA THROUGH
CBI/ACB/GOA
Through Central Bureau of
Investigation/ACB/ GOA Having
Office at Alto Porvorim, Penha De
Franca, Goa, 403521. ... RESPONDENT

Mr Shashant Naik and Ms Vaibhavi Kanekar, Advocates for the Applicant.

Ms Asha Desai, Special Public Prosecutor for Respondent CBI.

CORAM: ASHISH S. CHAVAN, J.

Reserved on: 28th APRIL 2026
Pronounced on: 30th APRIL 2026

ORDER:

1. By way of the present Application, the Applicant has prayed for suspension of the sentence imposed on him by way of the impugned order dated 09.02.2026 passed by the Special Court, Principal Sessions Judge, North Goa. The impugned order reads as under:-

> " *Accused No.1 and Accused No.2 are sentenced to undergo simple imprisonment for a period of one month and pay fine of Rs. 5,000/- each, for the offence punishable under Section 420 of Indian Penal Code.*
>
> *Accused no. 1 and accused no.2 are sentenced to undergo simple imprisonment for a period of one month and pay fine of Rs.5,000/- each, for the offence punishable under Section 471 of Indian Penal Code.*
>
> *Accused no. 1 and Accused no.2 are sentenced to pay fine of Rs.5,000/- each, for the offence punishable under Section 120-B of Indian Penal Code.*
>
> *Accused no.1 is sentenced to undergo simple imprisonment for a period of one year and pay fine of Rs.25,000/- for the _ Offence punishable under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.*
>
> *Accused no.2 is sentenced to undergo simple imprisonment for a period of one year, and pay fine of Rs.5,000/- for abetting the crime for offence under section 109 of Indian Penal Code which is punishable under section 13(2) r/w 13 (1) (d) of Prevention of Corruption Act, 1988.*
>
> *Accused no.1 is sentenced to undergo simple imprisonment for a period of one month and pay fine of Rs. 5,000/- for the offence punishable under section 467 of Indian Penal Code.*

Accused no. 1 is sentenced to undergo simple imprisonment for a period of one month and pay fine of Rs.5,000/- for the offence punishable under Section 468 of Indian Penal Code.

All the sentences shall run concurrently. The amount of fine, if recovered, shall be forfeited in favour of the State, after the appeal period is over."

2. The Applicant, who is arraigned as the original Accused No.2, has challenged the aforesaid impugned order by way of Criminal Appeal No.296/2026 (F). The facts relevant to the issue that arises before this Court can be summarized as under:-

(i) On 24.12.2011, a complaint is filed by the then Deputy General Manager of Canara Bank, Circle Office, Goa against the Applicant and one Valiveti Venkata Narasimha Shastry (co-accused), who is the Appellant in Criminal Appeal No.321/2026 (F) pending before this Court.

(ii) On 29.12.2011, on the basis of the aforesaid complaint, the Respondent CBI registered FIR wherein the Applicant and co-accused were arraigned as Accused.

(iii) On the completion of the investigation, charge sheet was filed before the Special Court, Principal Sessions Judge, North Goa on 08.04.2013.

(iv) On 28.02.2014, charges are framed against the Applicant and co-accused for offences punishable under Sections 420, 120B, 467, 468, 471 r/w Section 109 of IPC and Section 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988 (PC Act).

(v) After conclusion of the evidence, learned Special Court passed the impugned order dated 09.02.2026.

(vi) On an application for suspension of sentence under Section 389 of Cr.P.C., the Special Court, Principal Sessions Judge, North Goa stayed the execution and operation of the sentence for a period of ninety days vide order dated 09.02.2026.

(vii) The case of the prosecution in a nutshell is that the co-accused was functioning as in-charge officer, Canara Bank, Ponda Branch, Goa from 31.07.2006 till 30.04.2009. It is the case of the prosecution that the co-accused went beyond the discretionary powers to sanction loan of Rs.5,00,000/- to the Applicant to purchase a four wheeler bearing registration No.MH-09-AT-5050 (Hyundai Accent Car) when the vehicle was already in the name of the Applicant on 02.01.2007, without verifying details, on the basis of the sale purchase offer letter signed by the vendor who had expired in 2004. The other allegation against the Applicant and co-accused is that they have altered the valuation report from Rs.6.60 lakhs to Rs.6.80 lakhs and further transferred the loan proceeds in the savings account of the Applicant instead of the vendor. Further, the Applicant obtained a second loan on the same vehicle from the Rajarampuri Branch of Canara Bank in Kolhapur for the purchase of the same car for which a separate charge sheet was filed against him before the Special Judge at Kolhapur. The allegations further state that the loan application for was filled up in the handwriting of the co-accused. It is alleged that a receipt letter along with the loan application form addressed to the Applicant by the vendor is forged. It is also alleged that the Motor Vehicle Valuation Report issued by the bank approved valuer Mr Nadkarni was also forged by manipulation of the original figure of Rs.6.60 lakhs which was altered to Rs.6.80 lakhs.

3. Heard Mr Shashant Naik for the Applicant and Ms Asha Desai, Special Public Prosecutor for the Respondent CBI. Perused the application and record.

4. On behalf of the Applicant, it is submitted that the learned Trial Court has failed to appreciate that since the entire loan amount was repaid by the Applicant before the registration of the offence and well before the maturity of the loan account, there was no loss occasioned to the Complainant Bank and hence, there was no deception, fraud or dishonest inducement on the part of the Applicant and therefore, the offence of cheating is not proved by the prosecution. Insofar as the allegation of forgery is concerned, the expert evidence shows that the interpolation alleged to have been made by the Applicant and co-accused has in fact not been made by either of them. Since the specimen signature of the Motor Vehicle Valuer was not taken by the investigating officer, the allegation of forgery against the Applicant and co-accused is not proved. It was also submitted that the ownership, purchase and transfer of the vehicle remains undisputed as per the deposition of PW6 – Sanjay Ramnath Tirodkar who admits in his evidence that he purchased the four wheeler in question and later sold the vehicle to the Applicant after receiving the sale consideration. The learned counsel for the Applicant has urged that insofar as the aspect of undue favours by the Applicant to the public servant i.e. the co-accused is concerned, the learned Trial Court has failed to appreciate that the railway bookings done by the Applicant in favour of the co-accused were actually booked by some other person who had no connection with the Applicant. The same is brought on record during the course of evidence. Also, the allegation that the Applicant had paid the bills of Hotel Yatri Niwas in Kolhapur on behalf of the co-accused, is also not proved in view of the fact that there is a mismatch between the amounts sought to be projected by the prosecution and the amounts reflected in the actual bills. The learned Advocate for the Applicant concluded by submitting that he had a good case in appeal and that the Applicant was ready to abide by the terms and conditions if any, imposed on him by this Court and prayed for allowing the application for suspension.

5. Per contra, Ms Asha Desai, learned Special Public Prosecutor for Respondent CBI opposed the application for suspension. She submitted that the offence for which the Applicant stands convicted is an economic offence which is a serious offence. If the reliefs as prayed for by the Applicant are granted, then, it will erode the public confidence and encourage abuse of power by public servant. On merits, she countered the submissions on behalf of the Applicant stating that the loan was sanctioned on the basis of forged documents and on the same day, two loans were obtained on the same vehicle. She submits that the charges of cheating and forgery are clearly proved. The role of the Applicant in entering into a criminal conspiracy with the co-accused (public servant) is also clearly established. In view thereof, she prays that the application for suspension be rejected.

6. Appreciating the rival contentions, the following facts emerge. The maximum substantive sentence against the present Applicant is sentence to undergo simple imprisonment for a period of one year. The aggregate fine imposed on the Applicant is Rs.20,000/-. I find merit in the submission of the Applicant that the issue of forgery, cheating and criminal conspiracy needs to be examined in the light of the evidence which has several discrepancies and contradictions as highlighted by the counsel for the Applicant. Arguable questions on law and fact are raised which can be dealt with only during the final hearing of the Appeal. In view thereof the Appeal deserves to be admitted.

7. Insofar as the suspension is concerned, a profitable reference can be made to the judgment of ***Bhagwan Rama Shinde Gosai and others v/s. State of Gujarat – (1999) 4 SCC 421*** where the Hon'ble Supreme Court had an occasion to enunciate the parameters for examining the aspect of suspension and bail in a fixed-term sentence. In the facts of the case before the Hon'ble Supreme Court, the appellants were convicted and sentenced to rigorous imprisonment for ten years. Aggrieved by the rejection of their suspension by the High Court, the appellants were constrained to approach the Hon'ble Apex Court which observed thus at paragraph 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………*"

8. The Hon'ble Supreme Court had an occasion to consider the parameters of the aspect of suspension and bail in a fixed-term sentence again in the matter of ***Angana and Ors. v/s. State of Rajasthan – (2009) 3 SCC 767*** where the Hon'ble Supreme Court, after taking a conspectus of the judgments of *Bhagwan Rama Shinde Gosai (supra)* and ***Suresh Kumar V/s. State (NCT of Delhi) – (2001) 10 SCC 338***, was pleased to observe at paragraph 14 as under:-

> "*When an appeal is preferred against conviction in the High Court, the court has ample power and discretion to suspend a sentence but that discretion has to be exercised judiciously depending upon the facts and circumstances of each case. while considering the suspension of sentence, each case is to be considered on the basis of nature of offence, manner in which occurrence taken place, whether in any manner bail granted earlier had been misused. In fact, there is no straitjacket formula which can be applied in exercising the discretion. The facts and circumstances of each case will govern the exercise of judicial discussion while considering the application filed by the convict under Section 389 of the Criminal Procedure Code.*"

9. The aforesaid principles were reiterated by the Hon'ble Supreme Court in the matter of ***Aasif @ Pasha v/s. State of U.P.- 2025 SCC OnLine SC 1644*** and ***Sohail Gohar v/s. State of M.P. – Criminal Appeal No.2058/2025 decided on 17.04.2025***.

10. In the light of the aforesaid facts and circumstances and the guiding principles of the Hon'ble Supreme Court, this Court is of the view that in the facts of the present case, the Applicant has made out a case for suspension of the sentence imposed on him and grant of bail albeit subject to certain conditions.

11. In view thereof, this Court proceeds to pass the following order:

(a) The sentence imposed by the Special Court, Principal Sessions Judge, North Goa vide order dated 09.02.2026 is suspended until the final disposal of the Appeal subject to deposit of Rs.20,000/- towards the fine amount in the Special Court, Principal Sessions Judge, North Goa within a week from the date of this Order.

(b) The Applicant is directed to be released on bail on his executing P. R. Bond of Rs.10,000/- with one surety in the like amount to the satisfaction of the Special Court, Principal Sessions Judge, North Goa within four weeks from the date of this Order.

(c) The Applicant shall inform the place of his residence to the Registry of this Court with valid proof thereof and report any changes in the same immediately with appropriate proof.

Corrections carried out as per Order dated 06.05.2026.

(d) The Applicant shall not leave the ~~jurisdiction of this Court and the territory of India without the prior permission of this Court until the conclusion of the Appeal~~ territory of India without prior permission of this Court till the conclusion of the Appeal.

(e) The Applicant to deposit passport, if any, with the Registry of this Court.

12. Violation of any of the aforesaid conditions would make the Applicant liable for cancellation of bail.

13. The Criminal Misc. Application No.297/2026 (F) stands disposed of in the aforesaid terms. The Registry to waive office objections and register the matter.

ASHISH S. CHAVAN, J.

Signed by: SUCHITRA NANDAN SINGBAL
Designation: Personal Assistant
Date: 06/05/2026 16:33:11