

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

CRI-INTERIM APPLICATION NO. 136 OF 2026
IN CRIMINAL APPEALST NO. 762 OF 2026

NIYAJAMEER SHABBIR PATHAN
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Appellant : Mr. Saiprasad Patil
Advocate for Respondent : Dr. Ms. A. A Takalkar
...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 06-05-2026

PER COURT:-

1. Heard.
2. Issue notice, returnable on 29.06.2026.
3. Learned A.P.P. waives service of notice for the respondent.
4. The applicant seeks suspension of sentence awarded in judgment and order rendered by the learned Additional Sessions Judge, Karad, in Sessions Case No.66 of 2020, dated 19.11.2025.
5. The applicant is convicted by the trial court for the offence punishable under Sections 308, 279 and 337 of the Indian Penal Code, 1860. The sentence awarded to the applicants by the trial Court is as under :

1. Accused Niyajameer Shabbir Pathan is hereby convicted u/s 258 (2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, for the offences punishable u/s 308, 279, 337 of the Indian Penal Code, 1860.

2. He is sentenced to undergo rigorous imprisonment of 5 years and shall pay fine of Rs.10,000/- for the offence punishable u/s 308 of the Indian Penal Code. In default of payment of fine, the accused shall undergo further R.I. for one and half year.
3. He is sentenced to undergo rigorous imprisonment of six months and shall pay fine of Rs.5,000/- for the offence punishable u/s 279 of the Indian Penal Code. In default of payment of fine, the accused shall undergo further R.I. for one month.
4. He is sentenced to undergo rigorous imprisonment of six months and shall pay fine of Rs.5,000/- for the offence punishable u/s 337 of the Indian Penal Code. In default of payment of fine, the accused shall undergo further R.I. for one month.

6. The learned counsel for the applicant submits that the impugned judgment is contrary to the settled law and the evidence on record, being based on erroneous conclusions. It is submitted that while the learned Sessions Court acquitted the applicant under Section 338 of the Indian Penal Code and Section 185 of the Motor Vehicles Act, it failed to appreciate that the prosecution similarly failed to prove the case for the remaining charges. Despite this, the applicant was convicted and sentenced under Sections 308, 279, and 337 of the Indian Penal Code. Throughout the trial, the applicant was on bail and maintained a clean record without violating any conditions. Therefore, it is prayed that the substantive sentence be suspended during the pendency of the appeal and the applicant be enlarged on bail.

7. The learned APP opposed the application and submits that the prosecution has proved the case beyond reasonable doubt. The learned trial Court has rendered a well reasoned order and no interference is required in it. Hence, prayed to reject the application.

8. Having heard both learned counsel and perused the impugned judgment, I find that the applicant remained on bail during the trial without misusing the liberty. Considering that the applicant is awarded aforesaid substantive sentence and the conclusion of the appeal may likely to take a considerable period, the sentence deserves to be suspended. Hence, the order:-

ORDER

- (i) The criminal interim application is allowed.
- (ii) The sentence awarded in judgment and order rendered by the learned Additional Sessions Judge, Karad, in Sessions Case No.66 of 2020, dated 19.11.2025, is hereby suspended.
- (iii) The applicant/accused be enlarged on bail on furnishing PR Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand), and one solvent surety, in the like amount, before the learned Additional Sessions Judge, Karad.
- (iv) Applicants shall mark presence before the concerned Sessions Court, once in three months on the date assigned by the concerned Court.
- (v) The application stands disposed of accordingly.

[SACHIN S. DESHMUKH, J.]