

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

CRIMINAL INTERIM APPLICATION NO. 253 OF 2026
IN CRIMINAL REVISION APPLICATION NO. 29 OF 2026

ZAIRUDDIN HAYACHAND DESAI AND ANOTHER
VERSUS
THE STATES OF MAHARASHTRA

...
Advocate for Applicants : Mr. Jaysing J. Desai h/f. Mr. N. D. Tiwari
APP for Respondent : Mr. Nitin B. Patil

...
CORAM : SACHIN S. DESHMUKH, J.
DATE : 20-04-2026

PER COURT:-

1. Heard.
2. By this *interim* application, the applicants seek suspension of sentence awarded in judgment and order rendered by the learned Judicial Magistrate, First Class, Ajara, in Regular Criminal Case No.28 of 2013, dated 06.02.2020, and judgment and order rendered by the learned Additional Sessions Judge, Gadhinglaj, in Criminal Appeal No.9 of 2020, dated 04.04.2026.
3. The applicants are convicted by the Appellate Court – learned Additional Sessions Judge, Gadhinglaj, for the offences punishable under Sections 326 and 323 read with Section 34 of the Indian Penal Code and sentenced as under :
 1. The appeal is partly allowed.
 2. The Judgment and order of conviction and sentence passed by learned Judicial Magistrate, First Class, Ajara in R.C.C. No.28/2013 dated 06/02/2020 is modified as under :-

(i) The accused No.1 Zairuddin Hayachand Desai and Hayachand Maktum Desai are convicted under Section 326 read with 34 of the Indian Penal Code, 1860 as per Section 248(2) of the Code of Criminal Procedure, 1973 and the accused No. 1 Zairuddin Hayachand Desai sentenced to suffer rigorous imprisonment for 2 years and to pay fine of Rs.5,000/- (Rupees Five Thousand only). In default of payment of fine, he shall further rigorous imprisonment for 3 (three) months and the accused No. 2 Hayachand Maktum Desai sentenced to suffer simple imprisonment for 6 months and to pay fine of Rs.5,000/- (Rupees Five Thousand only). In default of payment of fine, he shall further simple imprisonment for 1 (one) month.

(ii) The accused No.1 Zairuddin Hayachand Desai and Hayachand Maktum Desai are convicted under Section 323 read with 34 of the Indian Penal Code, 1860 as per Section 248(2) of the Code of Criminal Procedure, 1973 and, the accused No. 1 Zairuddin Hayachand Desai sentenced to suffer rigorous imprisonment for 3 months and to pay fine of Rs.1,000/- (Rupees One Thousand only). In default of payment of fine, he shall further rigorous imprisonment for 15 (Fifteen) days and accused No. 2 Hayachand Maktum Desai sentenced to suffer simple imprisonment for 3 months and to pay fine of Rs.1,000/- (Rupees One Thousand only). In default of payment of fine, he shall further simple imprisonment for 15 (Fifteen) days.

(iii) The accused No. 1 Zairuddin Hayachand Desai was in jail from 29/01/2013 to 31/01/2013, therefore this period of detention shall be given benefit of set off.

(iv) Both the sentences shall run concurrently.

(v) The additional fine amounts of Rs. 1,000/- each (Rupees One Thousand only) deposited by both the accused shall be refunded them forthwith.

(vi) The fine amount of Rs. 7,500/- (Rupees Seven Thousand Five Hundred only) recovered from the accused be given to the informant Dilawar Gajbar Desai r/o Belewadi Hubalgi, Tal. Ajara, Dist. Kolhapur, as per section 357(1) of Code of Criminal Procedure, 1973 after expiry of appeal period.

(vii) Both accused shall surrender their bail bonds.

(viii) The seized muddemal Article stick and clothes being worthless be destroyed after one year from today if appeal is not preferred.

3. Learned counsel for the applicants submit that fine amount is deposited by the applicants. The applicants were on bail during the course of trial and have not misused the liberty. Hence, requested to allow the application.

4. It is contention of learned APP that prosecution has proved the case beyond reasonable doubt. The Trial Court has rendered a well reasoned order and no interference is required in it. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the impugned judgment and order. The applicant is on bail during the course of trial and has not misused the liberty. The sentence imposed upon the applicant is a short term sentence and this Court would not be in a position to take up the matter for final hearing immediately. Hence, the order:-

ORDER

- I. The criminal interim application is **allowed**.
- II. The substantive sentence of imprisonment awarded to the applicants by the learned Judicial Magistrate, First Class, Ajara, in R.C.C.No.28 of 2013 dated 06.02.2020 and modified by the learned Additional Sessions Judge, Gadhinglaj, vide judgment and order dated 04.04.2026 in Criminal Appeal No.9 of 2020, is hereby suspended.

- III. The applicants/accused be enlarged on bail on furnishing PR Bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand) each, and one solvent surety each, in the like amount.
- IV. Applicants shall mark their presence before the concerned Sessions Court, once in three months on the date assigned by the concerned Court.
- V. The criminal interim application is disposed of accordingly.

[SACHIN S. DESHMUKH]
JUDGE

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