



Cri. Appeal No.353/2026

Order Below Sentence Suspension Appli Exh. 4

1... Heard. Read the application, heard arguments in support of application and perused the record available. The appellants has/have filed this appeal against the order passed in Cri. Case No. 3518/2022, by the Ld. 3rd Addl. Chief Judicial Magi. Himmatnagar, convicted applicant/s accused U/ss. 323 and 324 r.w. Section 114 of I.P.C. and, awarded the sentence for the imprisonment as well as fine and imprisonment in lieu of fine. The applicants have already been paid fine imposed by the learned Trial Court.

2... Heard, Ld. Advocate for appellants and has submitted before the Court that there is chances of success in the appeal and Ld. Magi. Court has suspended the order for 30 days from the date of judgment pronounced on 08/05/2026, the fine imposed by the ld. trial court has already been deposited.

They have submitted that if the accused persons are not released on bail and if this order is not suspended under section 430 of BNSS (CrPC 389 (3), the accused have to go behind the bar and the purpose of justice would not serve and prayed to suspend the order passed by the Magi. Court and to release the accused person on suitable condition.

Ld. DGP/Ad.PP for the State has been heard on the subject and his representation has been taken into consideration while deciding the suspension application.

3... The relevant sec. 430 of BNSS (**Sec.389(3) of Cr.P.C.** and) under which relief has been sought to suspend the sentence awarded, has been reproduced as under:

1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and, also, if he is in confinement, that he be released on bail, or on his own bond or bail bond:

Provided that the Appellate Court shall, before releasing on his own bond or bail bond a convicted person who is convicted of an offence punishable with death or imprisonment for life or imprisonment for a term of not less than ten years, shall give opportunity to the Public Prosecutor for showing cause in writing against such release:

Provided further that in cases where a convicted person is released on bail it shall be open to the Public Prosecutor to file an application for the cancellation of the bail.]

4... Looking to the facts and circumstances, it transpires that Ld. Magi. Court has convicted appellants under the offence referred above and. As there is a chance of success to the appeal So, if this application is not allowed then the accused have to go to jail for period of sentence of imprisonment. Moreover, there appears no special ground to deny the prayer made in this application. Hence, no purpose would be served by incarcerating them in jail pending appeal. So, under such circumstances the application of the accused

appellants deserves to be allowed. Hence, in the light of the above discussion, the following order is, hereby, made.

ORDER

- 1) The present application of the applicants viz. (1) Parmar Kiransinh Dhulsinh and (2) Kalusinh Babusinh Chauhan hereby allowed conditionally.
- 2) Execution of sentence inflicted by Order passed by the Ld. 3rd Add. Chief Judicial Magi. Himmatnagar in Cri.Case No.3518/2022, dated 08.05.2026 convicting the accused persons U/ss. 323 and 324 r.w. Section 114 of I.P.C. is hereby suspended till the final disposal of /hearing of the appeal.
- 3) Each accused is directed to remain present on every hearing.
- 4) Each accused is also directed furnish their personal bond for Rs. 10,000/- & surety of like amount, before this court.
- 5) A yadi with a copy of this order be sent to the concerned trial court.

Read & Pronounced in open court today.

Date : 08/06/2026
Himmatnagar.

M. N. Shaikh. (GJ00611),
Addl. Sessions Judge, Himmatnagar, (S.K.)