

**Order below Exh.5**

1] The present application has been filed under section 389 of Cr.P.C. for seeking the suspension of the sentence and fine as imposed by the JMFC, Pulgaon upon the appellant in R.C.C. No.72/2016 State of Maharashtra Vs Sheikh Taufik @ Tappu Sheikh Rafik. As per the application, the accused came to be convicted on 30-7-2025 in the said matter for the offences punishable under sections 354, 354-A, 354-C and 506 Part-II of the Indian Penal Code in the following terms –

a) For the offence punishable under sections 354 of IPC he came to be sentenced to rigorous imprisonment for one year and fine of Rs.10,000/- in default of which he was directed to suffer simple imprisonment for two months.

b) For the offence punishable under sections 354-A of IPC, he was sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.5,000/- in default of which he was directed to suffer simple imprisonment for one month.

c) For the offence punishable under sections 354-C of IPC, the accused was sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.10,000/- in default of which he was directed to suffer simple imprisonment for two months.

d) For the offence punishable under sections 506 Part-II of IPC, the accused was sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.5,000/- in default of which he was directed to suffer simple imprisonment for one month.

2] It is therefore clear that a total sum of Rs.30,000/- has been imposed as fine upon the appellant. As per Shri Verma Advocate, the

appellant is quite poor and hence, he is unable to pay the said amount of money. On the other hand, Shri Ghude the ld. APP has stated that the sentence cannot be suspended till the appellant deposits the full amount of fine as imposed upon him. He has therefore, sought the rejection of the application. To this Shri Verma Advocate has pointed out that the Hon'ble Supreme Court the judgment in **Criminal Appeal No.4277 of 2024 Central Bureau of Investigation Vs Ashok Sirpal dtd.24-10-2024** has dealt with the said question and held that a direction issued to pay a fine while convicting an accused can be suspended in the exercise of power under sub section (1) of section 389 of the Cr.P.C. It further held that while suspending the sentence, especially the sentence of fine, the Appellate Court can impose conditions. Whether the order of suspension of the sentence of fine should be conditional or unconditional will, as per the Hon'ble Supreme Court, depend on the facts of each case and especially on the nature of the offence. It was further directed that the court has to keep in mind that if a condition of the deposit of an amount is imposed while suspending the sentence of fine, the same should not be such that it is impossible for the appellant to comply with it. This is because, such a condition may amount to defeating his right of appeal against the order of conviction, which may also violate his rights under Article 21 of the Constitution.

3] Keeping the aforesaid principles in mind as also the fact that this accused is in jail since the date of his conviction on account of he not being in a position to deposit the sum of Rs.30,000/- as fine, thereby showing that he has already spent three months and 18 days in the jail as a convict, prior to which he had spend two months and 1 day in the jail, it is quite clear that he has completed a sentence of five

months and 19 days till date. Hence, considering the poverty of the appellant as it is only due to the same that he has chosen to remain in the jail, I am of the view that he can be ordered to be released on the suspension of the sentence of imprisonment and fine while directing him to deposit a minimum amount of the said fine. Hence, I proceed to pass the following order.

**Order**

The sentence of conviction and of fine as imposed upon the appellant by the ld. Trial court in terms of the impugned judgment dtd.30-7-2025 in RCC No.72/2016 State Vs Sheikh Taufik @ Tappu hereby stands suspended on the appellant executing a PR. Bond of Rs.10,000/- and furnishing a surety in the like amount and on depositing a fine of Rs.5000/-.

Wardha.  
Date – 18.11.2025.

(Ms. S.J. Ansari)  
Additional Sessions Judge, Wardha.

### **Certificate**

“ I affirm that the contents of the P.D.F. file order are same word for word as per original order.

S.V. Dakhane  
(Stenographer G-1)