

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION NO. 34 of 2024
(AGAINST CONVICTION)

With

CRIMINAL MISC.APPLICATION NO. 1 of 2024
(REGULAR BAIL)

In

R/CRIMINAL REVISION APPLICATION NO. 34 of 2024

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JADAVBHAI BAHGVANBHAI BARAIYA

Versus

STATE OF GUJARAT

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Appearance:

MR RATHIN P RAVAL(5013) for the Applicant(s) No. 1

MR BHARGAV PANDYA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE S.V. PINTO**

Date : 11/01/2024

ORAL ORDER

ORDER IN CRIMINAL REVISION APPLICATION :

Rule. Learned APP waives service of notice of rule for the respondent – State.

Learned advocate for the applicant seeks permission to file additional papers on record.

Permission is granted. Registry to accept the same.

ORDER IN CRIMINAL MISC. APPLICATION :

1. Rule. Learned APP waives service of notice of rule for the respondent – State.

2. By way of present application under Section 397 r/w 114 of the Code of Criminal Procedure, 1973, the applicant - accused is seeking suspension of sentence and release on regular bail during pendency of the present revision application against the judgment and order of conviction in Criminal Appeal No. 03 of 2018 passed by the learned Additional Sessions Judge, Rajula on 10.10.2023, whereby, the learned Sessions Judge has confirmed the judgment and order in Criminal Case No. 471 of 2012 passed by the learned (Ad-hoc) Principal Judicial Magistrate, First Class, Jafrabad on 17.01.2018, whereby, the learned Judicial Magistrate, First Class has sentenced the applicant – original accused to undergo six months simple imprisonment for the offence punishable under Section 323 of the IPC and three months simple imprisonment for the offence punishable under Section 326 of the IPC and further ordered that the applicant has to undergo both the sentences differently.
3. Learned advocate for the applicant – accused submits that the applicant preferred appeal before the learned Sessions Court against the conviction order passed by the learned Judicial Magistrate First Class and the learned Sessions Judge confirmed the order of conviction. He submits that the present revision application is not likely to be heard in near future and hearing of the same would take some long time

and hence, no purpose would be served by keeping the applicant in jail for indefinite period with the hardened criminals. The applicant has a good case on merits and hence, the order of the sentence may be suspended and the applicant may be released on regular bail on appropriate terms and condition.

4. Learned APP for the State has objected to the present application to grant suspension of sentence and has submitted that the order of sentence is just and proper and no interference is required in the order passed by the learned Sessions Judge confirming the judgment and order passed by the learned Judicial Magistrate First Class and hence, present application may be rejected.
5. Heard learned advocate for the respective parties and perused the document produced on record.
6. At this juncture, it would also be fit to refer to the judgment of the Apex Court in the case **Bhagwan Rama Shinde Gosai Vs. State of Gujarat** reported in (1999) 4 SCC 421, wherein, it has been held that when the appellate Court finds that due to practical reasons such appeal cannot be disposed of expeditiously the appellate Court must be bestow special concern in the matters of suspending the sentence. And without entering into the merits of the case, this court is of

the opinion that the application requires consideration and accordingly, is allowed. The execution of the order of sentence in Criminal Case No. 471 of 2012 passed by the learned (Ad-hoc) Principal Judicial Magistrate, First Class, Jafrabad on 17.01.2018 and confirmed in Criminal Appeal No. 03 of 2018 passed by the learned Additional Sessions Judge, Rajula on 10.10.2023 is suspended during pendency of the criminal revision application and the applicant is ordered to be released on bail on furnishing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with surety of the like amount to the satisfaction of the trial court and on the following conditions:

- (i) shall not take undue advantage of liberty or misuse liberty;
- (ii) shall not leave India without prior permission of this Court;
- (iii) shall furnish the present address of his residence to the Court concerned at the time of execution of the bond and shall not change the residence without the prior permission of this Court;
- (iv) shall maintain law and order;
- (v) shall not indulge in any activity leading to breach of public peace and tranquility.

7. Direct service is permitted.

F.S.KAZI.....

(S. V. PINTO, J)