

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 577 of 2026
With
CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE)
NO. 1 of 2026
In R/CRIMINAL APPEAL NO. 577 of 2026

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INDRABA W/O HEMANTSINH AMARSINH JADEJA

Versus

STATE OF GUJARAT

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Appearance:

MR BHUVNESH GAHLOT(10286) for the Appellant(s) No. 1

MR ADITYA JADEJA, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 24/03/2026

ORAL ORDER**ORDER IN CRIMINAL APPEAL :**

1. Heard learned advocate Mr. Bhuvnesh Gahlot for the appellant and learned APP Mr.Aditya Jadeja for the respondent – State.

2. Admit. Learned APP waives service of notice of admission for the respondent – State.

ORDER IN CRIMINAL MISC. APPLICATION :

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

2. By way of present application under Section 430 of

the BNSS, the applicant - accused is seeking suspension of sentence and release on regular bail during pendency of the present appeal against the judgment and order of conviction passed by the learned 2nd Additional Sessions Judge, Jamnagar in Sessions Case No. 25 of 2016 on 23.01.2026, whereby, the applicant - accused is sentenced to rigorous imprisonment of 03 years and fine of Rs.10,000/-, and in default, simple imprisonment of 06 months for the offence punishable under Sections 326 of the IPC and rigorous imprisonment of 01 year and fine of Rs.5,000/-, and in default, simple imprisonment of 03 months for the offence punishable under Sections 323 of the IPC. The learned Trial Court was further pleased to order that both the sentences were to run concurrently.

3. Heard learned advocate Mr. Bhuvnesh Gahlot for the applicant and learned APP Mr. Aditya Jadeja for the respondent – State.

4. Learned advocate Mr. Bhuvnesh Gahlot for the applicant–accused submits that, after the judgment and order of conviction, the applicant had preferred an application below Exh. 165 for suspension of sentence to enable him to file an appeal. The learned Trial Court allowed the said application and suspended the sentence for a period of 30 days. However, the applicant could not file the appeal within the stipulated time and thereafter preferred an application below Exh. 167 seeking extension of the suspension of execution of sentence. The learned Trial Court rejected the said application, stating that it

had no power to extend the suspension of execution of sentence. Consequently, the applicant surrendered before the jail authorities and thereafter preferred the present application for suspension of execution of sentence. The sentence is for a fixed period of three years. Learned advocate further submits that the present appeal is not likely to be heard in the near future and its hearing would take considerable time; therefore, no useful purpose would be served by keeping the applicant in jail for an indefinite period with hardened criminals. The applicant has a good case on merits, and hence, the execution of the sentence may be suspended and the applicant may be released on regular bail on appropriate terms and conditions

5. Learned APP Mr. Aditya Jadeja for the respondent - State has strongly 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 Trial Court, and hence, the present application may be rejected.

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 sentence is for a fixed period, 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 order of execution of sentence in the judgment and order passed by the learned 2nd Additional Sessions Judge, Jamnagar in Sessions Case No. 25 of 2016 on 23.01.2026 is suspended during pendency of the criminal appeal and the applicant is ordered to be released on bail on furnishing personal bond of Rs.10,000/- (Rupees Ten Thousand Only) with one 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 her 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 deposit the amount of fine, if not deposited, within four weeks.

7. Rule is made absolute. Direct service today is permitted.

F.S.KAZI

(S. V. PINTO,J)