

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 560 of 2026
With
CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE)
NO. 1 of 2026
In
R/CRIMINAL APPEAL NO. 560 of 2026

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GOHIL GAUTAM KALUBHAI
Versus
STATE OF GUJARAT

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Appearance:

MR. ZAMIR Z SHAIKH(6857) 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. Zamir Z. Shaikh 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. Zamir Z. Shaikh waives service of notice of rule for the respondent – State.

2. By way of the present application under Section 430 of the BNSS, 2023, 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 Fast Track Special Court (POCSO), 9th Additional Sessions Judge, Surat in Sessions Case No. 156 of 2022 on 03.02.2026, whereby, the applicant – witness no.13 is sentenced to simple imprisonment of 01 month and fine of Rs.300/-, and in default, simple imprisonment of 05 days for the offence punishable under Sections 344 of the IPC.

3. Heard learned advocate Mr. Zamir Z. Shaikh for the applicant and learned APP Mr.Aditya Jadeja for the respondent – State.

4. Learned advocate Mr. Zamir Z. Shaikh for the applicant submits that, after the judgment and order of conviction, the applicant had preferred an application below Exh. 128 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. The sentence is for a fixed period of one month. 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 Fast Track Special Court (POCSO), 9th Additional Sessions Judge, Surat in Sessions Case No. 156 of 2022 on 03.02.2026 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 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 deposit the amount of fine, if not deposited, within four weeks.

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

F.S.KAZI

(S. V. PINTO,J)