

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 638 of 2026****With****CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2026****In R/CRIMINAL APPEAL NO. 638 of 2026**=====
SURESHBHAI @ CHAKO BALABHAI PARMAR**Versus****STATE OF GUJARAT**
=====

Appearance:

MR DH RAHEVAR(2165) for the Appellant(s) No. 1

MR. ADITYA JADEJA, APP for the Opponent(s)/Respondent(s) No. 1
=====**CORAM:HONOURABLE MS. JUSTICE S.V. PINTO****Date : 24/03/2026****ORAL ORDER****ORDER IN CRIMINAL APPEAL:-**

Admit. Learned APP waives service of admission for and on behalf of the respondent State.

ORDER IN CRIMINAL MISC. APPLICATION:-

1. **RULE.** Learned Additional Public Prosecutor appears and waives service of notice of rule on behalf of the respondent-State.

2. By way of the present application under Section 415 of the Bharatiya Nagarik Surakhsha Sanhita, 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 passed in Special (POCSO) Case No. 37/2024 (Old Pocso Case No. 03/2024) by the learned Special Judge (POCSO) & Additional Sessions Judge, Kapadvanj (Kheda) on 24.02.2026, whereby, the present applicant - accused was sentenced to rigorous imprisonment of 02 years and 06 months and fine of Rs.5,000/- and in default, simple imprisonment of 03 months for the offence under Section 354(A) of Indian Penal Code, rigorous imprisonment of 06 months and fine of Rs.500/- and in default, simple imprisonment of 01 month for the offence under Section 323 of Indian Penal Code and rigorous imprisonment of 02 months and fine of Rs.250/- and in default, simple imprisonment of 15 days for the offence under Section 447 of Indian Penal Code. The learned Trial Court was pleased to order that all the sentences shall run concurrently.

3. Heard learned advocate Mr. D.H. Rahevar for the applicant and learned APP Ms. C.M. Shah for the respondent State.

4. Learned Advocate Mr. D.H. Rahevar for the applicant submits that the applicant has been sentenced to a

period of 02 years and 06 months by the judgment and order dated 24.02.2026 and pursuant to the judgment and order, the applicant had filed an application at Exh.42 for suspension of sentence under Section 415 of the B.N.S.S. The learned Trial Court was pleased to allow the application and suspend the execution of the sentence and release the applicant on bail. The applicant has filed the appeal within the period of limitation and the applicant has been protected till today. Learned advocate submits that the applicant has been sentenced for a fixed period and has a good case on merits. Moreover, the appeal 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 hardened criminals. The applicant has a good case on merits and hence, the application may be allowed and the applicant be enlarged on bail pending hearing and final disposal of the captioned Criminal Appeal.

5. Learned APP Ms. C.M. Shah for the respondent - State has strongly objected to the submissions made by the learned advocate for the applicant and has submitted that the learned Trial Court has rightly convicted the present applicant

as he has been involved in a very serious offence, however, necessary orders may be passed in the interest of justice.

6. On perusal of the impugned judgment and order passed by the learned Trial Court below Exh.42, it appears that the execution of order of sentence of the applicant has been suspended and the order has been continued till today. Moreover, on perusal of the impugned judgment and order, it appears that the arguments of the learned advocate for the applicant deserves consideration 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 the sentence in the judgment and order passed in Special (POCSO) Case No. 37/2024 (Old PocsO Case No. 03/2024) by the learned Special Judge (POCSO) & Additional Sessions Judge, Kapadvanj (Kheda) on 24.02.2026, is suspended during pendency of the Criminal Appeal and the applicant is ordered to be released on bail on furnishing personal bond of Rs. 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 that the applicant;

- (i) shall not take undue advantage of liberty or misuse liberty;

- (ii) shall furnish the present address of his residence to the Court concerned at the time of execution of the bond;
- (iii) shall maintain law and order;
- (iv) shall not indulge in any activity leading to breach of public peace and tranquility;
- (v) shall deposit the entire amount of fine if not paid within four weeks;

8. In view of the above, the present application stands disposed of. Rule is made absolute to the aforesaid extent. Direct service is permitted.

ROHAN SONI

(S. V. PINTO,J)