

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 968 of 2023
With
CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2026
In R/CRIMINAL APPEAL NO. 968 of 2023

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RITESH @ HITESH JASHVANTBHAI @ KABBHAI SHIVABHAI & ORS.
Versus
STATE OF GUJARAT

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Appearance:

MR JAIMIN H SUTHAR(10749) for the Appellant(s) No. 1,2,3
MR SATYAJIT S SONAGARA(12218) for the Appellant(s) No. 1,2,3
MS. C.M. SHAH, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 08/05/2026

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 430 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 of conviction passed by the learned 2nd Additional Sessions Judge, Ahmedabad (Rural) at Mirzapur in Sessions Case No. 44/2018 dated 10.03.2023, whereby, the present applicants - accused were sentenced to the following term:

Offence u/s	Sentence	In default of payment
307 read with Section 34 of IPC	Rigorous imprisonment for 10 years and fine of Rs. 50,000/- each	Rigorous imprisonment for 6 months
326 read with Section 34 of IPC	Rigorous imprisonment for 7 years and fine of Rs. 10,000/- each	Rigorous imprisonment for 4 months
324 read with Section 34 of IPC	Rigorous imprisonment for 7 years and fine of Rs. 1000/- each	Rigorous imprisonment for 3 months

3. Heard learned advocate Mr. Satyajit Sonagara for the applicants and learned APP Mr. Aditya Jadeja for the respondent State.

4. Learned Advocate Mr. Satyajit Sonagara for the applicants submits that the applicants have undergone a substantial period of incarceration of 3 years, 2 months and 11 days out of ten years of fixed sentence. Learned advocate further submits that the execution of order of sentence was suspended qua the accused no. 3 vide an order of this Court

dated 28.08.2024 and the accused no. 3 was released on bail. Learned advocate further submits that the present 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 applicants in jail for indefinite period with hardened criminals. The applicants have a good case on merits and hence, the application may be allowed and the applicants be enlarged on bail pending hearing and final disposal of the captioned Criminal Appeal.

5. Learned APP for the respondent – State has strongly objected to the submissions made by the learned advocate for the applicants and has submitted that the learned Trial Court has rightly convicted the present applicants as they have been involved in a very serious offence, however, as the applicants have undergone substantial period of incarceration, necessary orders may be passed in the interest of justice.

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 appellants have been sentenced for a fixed period and when the appellate Court finds that due to practical reasons such appeal cannot be disposed of expeditiously the appellate Court must bestow special concern in the matters of suspending the sentence. And without entering into the merits of the case, as the appeal is filed within time, this Court is of the opinion that the application requires consideration and accordingly, is allowed.

7. The order of execution of sentence passed by the learned 2nd Additional Sessions Judge, Ahmedabad (Rural) at Mirzapur in Sessions Case No. 44/2018 dated 10.03.2023 is suspended during pendency of the Criminal Appeal and the applicants are 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 applicants;

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

misuse liberty;

(ii) shall furnish the present address of their 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 amount of fine, if not deposited, within a period of four weeks from the date of this order;

(vi) the applicants shall be released if not required in any other case.

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

VASIM S. SAIYED

(S. V. PINTO,J)