

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 637 of 2026
With
CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2026
In R/CRIMINAL APPEAL NO. 637 of 2026

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SHREY JAGDISHKUMAR MISTRI
 Versus
 STATE OF GUJARAT & ANR.

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Appearance:
 MR APURVA R KAPADIA(5012) for the Appellant(s) No. 1
 NOTICE SERVED BY DS for the Opponent(s)/Respondent(s) No. 2
 MR. ADITYA JADEJA, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 05/05/2026

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:

The respondent no. 2 is present in-person before this Court.

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 Special Judge (POCSO), Court No. 20, City Sessions Court, Ahmedabad in Special POCSO Case no. 181/2023 dated 10.03.2026, whereby, the present applicant - accused was sentenced to the following term:

Offence u/s	Sentence	In default of payment
Section 12, 11(ii) of POCSO Act and Section 354(A)(1) of IPC	Simple imprisonment for 3 years and fine of Rs. 25,000/-	Simple imprisonment for 6 months
Section 12, 11(iv) of POCSO Act and Section 354(D)(1) of IPC	Simple imprisonment for 3 years and fine of Rs. 25,000/-	Simple imprisonment for 6 months

Both the sentences were ordered to run concurrently.

3. Heard learned advocate Mr. Apurva Kapadia for the applicant and learned APP Mr. Aditya Jadeja for the respondent State.

4. Learned Advocate Mr. Apurva Kapadia for the applicant submits that after the judgment and order of

sentence, the applicant had preferred an application for suspension of sentence at Exh. 64 and the sentence was suspended for the appeal period by an order dated 10.03.2026. 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 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 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. 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 Special Judge (POCSO), Court No. 20, City Sessions Court, Ahmedabad in Special POCSO Case no. 181/2023 dated 10.03.2026 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 amount of fine, if not deposited, within a period of four weeks from the date of this order;

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)