

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 654 of 2026****With****CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE)****NO. 1 of 2026****In R/CRIMINAL APPEAL NO. 654 of 2026**=====
VIPULBHAI VINUBHAI GOHIL**Versus****STATE OF GUJARAT & ANR.**
=====**Appearance:****MR. KULDEEP D VAIDYA(7045) for the Appellant(s) No. 1****NOTICE SERVED for the Opponent(s)/Respondent(s) No. 2****MS CM SHAH, APP for the Opponent(s)/Respondent(s) No. 1**
=====**CORAM:HONOURABLE MS. JUSTICE S.V. PINTO****Date : 07/05/2026****ORAL ORDER****ORDER IN CRIMINAL APPEAL :**

1. Though served the respondent no. 2 has not appeared either in person or through an advocate.

2. **Admit.** Learned APP Ms.C.M.Shah waives service of notice of admission for the respondent no.1 – State.

ORDER IN CRIMINAL MISC. APPLICATION :

1. Though served the respondent no. 2 has not appeared either in person or through an advocate.

2. **Rule.** Learned APP waives service of notice of rule for the respondent – State.

3. By way of the present application under Section 430 of the Bhartiya Nagarik Suraksha 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) and 4th Additional Sessions Judge, Amreli in Special (POCSO) Case No. 25 of 2024 on 28.02.2026, whereby, the applicant - accused was sentenced to following terms.

Offence u/s	Sentence	In default of payment
363 & 366 of the IPC	R.I. for 03 years and fine of Rs.5,000/-	R.I. for 03 months.
354(A) of IPC with 8 and 18 of the POCSO Act	R.I. for 03 years and fine of Rs.5,000/-	R.I. for 03 months.

Both the sentences were ordered to run concurrently.

4. Heard learned advocate Mr. Abid Pathan for learned advocate Mr. Kuldeep D. Vaidya for the applicant and learned APP Ms. C.M.Shah for the respondent – State.

5. Learned advocate for the applicant submits that the on the date of conviction, the applicant preferred application below Exh.92 to suspend the sentence and the learned Trial Court was pleased to allow the said application on 28.02.2026 and suspended the sentence upto appeal period. The sentence is for a short period of 03 years and the present appeal is not likely to be heard in near future and hearing of the same would take a long time and hence, no purpose would be served by keeping the applicant in jail for indefinite period with the

hardened criminals. The applicant has a good case on merits and hence, the order of the sentence may be suspended and the applicant may be released on regular bail on appropriate terms and condition.

6. Learned APP for the State has objected to the present application to grant suspension of sentence and has submitted that the order of sentence is just and proper; however, considering the quantum of sentence, necessary orders may be passed in the interest of justice.

7. 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 this court is of the opinion that the arguments of the learned advocate for the applicants require consideration and accordingly, is allowed. The order of execution of sentence passed by the learned Special Judge and 11th Additional Sessions Judge Surat in Special (POCSO) Case No. 25 of 2024 on 28.02.2026 is suspended during pendency of the 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 learned Trial court and on the following conditions:

- (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 and shall not change the residence without the prior permission of this Court;
- (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.

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

(S. V. PINTO,J)

F.S. KAZI