

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 1085 of 2026****With****CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2026****In R/CRIMINAL APPEAL NO. 1085 of 2026**

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MITESH @MAYUR @LALO BECHARBHAI AMBALAL PATEL**Versus****STATE OF GUJARAT**

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Appearance:**KUMAR H TRIVEDI(9364) for the Appellant(s) No. 1****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 : 07/05/2026****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 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 Sessions Case No. 67/2021 by the learned Sessions Judge, Patan on 10.04.2026, whereby, the present applicant - accused was sentenced to rigorous imprisonment for life and fine of Rs.25,000/- and in default, simple imprisonment of 06 months for the offence under Section 302 read with Section 120(B) of the IPC and simple imprisonment of 06 months and fine of Rs.5000/- and in default, simple imprisonment of one month under Section 201 of IPC. The learned Trial Court was pleased to order that both the sentences shall run concurrently.

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

4. Learned Advocate Mr. K.H. Trivedi for the applicant submits that the applicant has been sentenced to a maximum period of three years and by a judgment and order dated 10.04.2026 and pursuant to the judgment and order of conviction, the applicant had filed an application at Exh.145 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 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 at Ech.145 dated 10.04.2026, 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.

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 appellant has 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, this court is of the opinion that the application requires consideration and accordingly, is allowed. Accordingly, present application is allowed. The order of execution of sentence passed in Sessions Case No. 39/2021 by the learned Sessions Judge, Mehsana on 23.12.2025 **Sessions Case No. 67/2021 by the learned Sessions Judge, Patan on 10.04.2026**, 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)