

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 1328 of 2024**

**With  
CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.  
1 of 2024  
In R/CRIMINAL APPEAL NO. 1328 of 2024**

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SHAMBHUBHAI RAMUBHAI DALSANIYA & ANR.

Versus  
STATE OF GUJARAT

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Appearance:

TATVDEEP J JANI(7227) for the Appellant(s) No. 1,2

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 : 27/06/2024**

**ORAL ORDER**

**Order in Criminal Appeal**

**Admit.**

**Order in Criminal Misc. Application**

1. By way of the present application under Section 389 of the Code of Criminal Procedure, 1973, the applicants - accused are seeking suspension of sentence and release on regular bail during pendency of the present appeal against the judgment and order of conviction dated 11.06.2024 passed in Sessions Case No. 10 of 2019 by the learned Sessions Judge, Bhavnagar, whereby, the present applicants - accused

were sentenced to two years rigorous imprisonment and fine of Rs. 2,000/- and in default, 2 months simple imprisonment for the offence punishable under Section 143,114 of the IPC, two years rigorous imprisonment and fine of Rs. 3,000/- and in default 3 months simple imprisonment for the offence punishable under Section 147, 114 of the IPC, two years rigorous imprisonment and fine of Rs. 3,000/- and in default 3 months simple imprisonment for the offence punishable under Section 148, 114 of the IPC, two years rigorous imprisonment and fine of Rs. 3,000/- and in default 3 months simple imprisonment for the offence punishable under Section 149, 114 of the IPC, five years rigorous imprisonment and fine of Rs. 10,000/- and in default simple imprisonment of six months for the offence punishable under Section 307, 114 of the IPC, three years rigorous imprisonment and fine of Rs. 5,000/- and in default simple imprisonment of four months for the offence punishable under Section 326, 114 of the IPC, two years rigorous imprisonment and fine of Rs. 2,000/- and in default simple imprisonment of two months for the offence punishable under Section 324, 114 of the IPC, one year rigorous imprisonment and fine of Rs. 1,000/- and in default simple imprisonment of one month for the offence punishable under Section 135 of the G.P. Act. All the sentences were ordered to run concurrently.

2. Learned advocate Mr. Tatvdeep Jani for the applicants has submitted that the present applicants have been convicted for a period of 2 years for the offence u/s. 324 and 114 of the IPC. Pursuant to the Judgment and Order of conviction, the applicants had filed an application u/s. 389(3) of the Code of Criminal Procedure and by order dated 11.06.2024, the learned sessions court was pleased to allow the application and suspend the order of sentence and release the applicants on bail. Learned advocate for the applicants submits that the applicants have deposited the amount of fine and the applicants are ready and willing to abide by any terms and conditions as may be imposed by this court. That the applicants have a good case on merits and the applicant has been convicted for a fixed term and hence, the suspension may be allowed and the applicants be enlarged on bail pending the hearing and final disposal of the captioned Criminal Appeal.

3. 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 applicants as they are involved in a very serious offence and has requested this Court to dismiss the present application.

4. Having heard learned advocate Mr. Tatvdeep Jani for the applicants as well as learned APP Ms. C. M. Shah for the respondent – State, it appears that Criminal Appeal against the sentence preferred by the applicant has been admitted by this court and the said Criminal Appeal is not likely to be heard in the near future. As per the contention of the learned advocate for the applicant, the applicants have a good case on merits and the application deserves consideration.

5. 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, this court is of the opinion that the application requires consideration and accordingly, is allowed. That the arguments of the learned advocate for the applicant deserves consideration. The execution of the sentence in the judgment and order of conviction dated 11.06.2024 passed in Sessions Case No. 10 of 2019 by the learned

Sessions Judge, Bhavnagar, is suspended during pendency of the Criminal Appeal and the applicant is ordered to be released on bail on furnishing personal bond of Rs. 10,000/- (Rupees Ten Thousand Only) with surety of the like amount to the satisfaction of the trial court and on the following conditions that the applicant;

- a) shall maintain law and order;
- b) shall not indulge in any activity leading to breach of public peace and tranquility.
- c) shall not leave India without prior permission of this Court.
- d) shall pay the fine, if not paid before their release.

6. Direct service is permitted.

MAYA

**(S. V. PINTO,J)**