

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 3088 of 2025
With
CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE)
NO. 1 of 2025
In R/CRIMINAL APPEAL NO. 3088 of 2025

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PARTH MUKESHBHAI TRIVEDI & ORS.

Versus

STATE OF GUJARAT & ANR.

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Appearance:

MR SMIT PANDYA, ADVOCATE for MR.ADITYA J PANDYA(6991) for the Appellant(s) No. 1,2,3,4

MR VIJAY H NANGESH(3981) for the Opponent(s)/Respondent(s) No. 2

MS CM SHAH, APP for the Opponent(s)/Respondent(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 01/05/2026

ORAL ORDER

CRIMINAL APPEAL :

Learned advocate Mr. Vijay Nangesh states that he has received instruction to appear for the respondent no. 2 and he may be permitted to file his appearance. Accordingly, he is permitted to file his appearance.

Admit. Learned APP Ms.C.M.Shah and learned advocate Mr.Vijay Nangesh waive service of notice of admission for the respective parties.

CRIMINAL MISC. APPLICATION :

1. Learned advocate Mr. Vijay Nangesh states that he

has received instruction to appear for the respondent no. 2 and he may be permitted to file his appearance. Accordingly, he is permitted to file his appearance.

2. Rule. Learned APP Ms.C.M.Shah and learned advocate Mr.Vijay Nangesh waive service of notice of rule for the respective parties..

3. By way of present application under Section 430 of the BNSS, 2023, the applicants - accused are seeking suspension of sentence and release on regular bail during pendency of the present appeal against the judgment and order passed by the learned 3rd Additional Sessions Judge, Bhavnagar in Criminal Appeal No. 29 of 2022 on 21.11.2025, whereby, the applicants - accused were sentenced to the following terms :

Offence u/s.	Sentence	In default of payment
323 of the IPC	S.I. for 03 months and fine of Rs.1000/-	S.I. of 15 days.

4. Learned advocate for the applicants submits that after the judgment and order of conviction, the applicants had preferred an application below Exh.42 for suspension of sentence to enable them to file an appeal. The learned Trial Court allowed the said application and suspended the sentence for a appeal period. The sentence is for a fixed period of 03 months. Learned advocate further submits that the present appeal is not likely to be heard in the near future and its hearing would take considerable time; therefore, no useful purpose

would be served by keeping the applicants in jail for an indefinite period with hardened criminals. The applicants have a good case on merits, and hence, the execution of the sentence may be suspended and the applicants may be released on regular bail on appropriate terms and conditions

5. Learned APP Ms.C.M.Shah and learned advocate Mr. Vijay Nangesh have jointly objected to the present application to grant suspension of sentence and have submitted that the order of sentence is just and proper; however, considering the quantum of sentence, appropriate order may be passed.

6. On perusal of the impugned judgment and order of conviction and the paper book produced on record by the learned advocate for the applicants and also having heard learned advocates for the respective parties, the arguments of learned advocate for the applicants requires 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 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 learned 3rd Additional Sessions

Judge, Bhavnagar in Criminal Appeal No. 29 of 2022 on 21.11.2025 is suspended during pendency of the appeal and the applicants are ordered to be released on bail on furnishing personal bond of Rs.10,000/- (Rupees Ten Thousand Only) each with surety of the like amount to the satisfaction of the trial court and the following conditions:

- (i) shall not take undue advantage of liberty or misuse liberty;
- (ii) shall not leave India without prior permission of this Court;
- (iii) shall furnish the present address of their 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;
- (iv) shall maintain law and order;
- (v) shall not indulge in any activity leading to breach of public peace and tranquility.

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

F.S.KAZI

(S. V. PINTO,J)