

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.
1 of 2023****In R/CRIMINAL APPEAL NO. 1933 of 2023**

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KULDEEPSINH BHARATSINH VAGHELA

Versus

STATE OF GUJARAT

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Appearance:

MR. IH SYED, SENIOR COUNSEL WITH MR PARTHIV B SHAH(2678) for
the PETITIONER(s) No. 1

MS. JIRGA JHAVERI, APP for the RESPONDENT(s) No. 1

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CORAM:HONOURABLE MS. JUSTICE S.V. PINTO

Date : 07/11/2023**IA ORDER**

- 1] The Appeal is admitted by an order dated 11th August, 2023.
- 2] The present application has been filed as the present applicant has been convicted for the offence punishable under Sections 306, 498-A, and 114 of the Indian Penal Code, 1860, by the *learned Principal Sessions Judge, Ahmedabad (Rural)* in **Sessions Case No. 160 of 2018** vide order **dated 20th July, 2023** and the applicant is sentenced to undergo 3 years rigorous imprisonment with fine of Rs.3000/- and in default further simple imprisonment of three months for the offence punishable under Sections 498(A) of Indian Penal Code, five year rigorous imprisonment with fine of Rs. 5,000/- and in default further simple imprisonment of six months for the offence punishable under

Section 306 with Section 114 of Indian Penal Code. Both sentences were ordered to run concurrently. .

3] Heard Mr. Syed, learned Senior Counsel appearing for the applicant and learned Additional Public Prosecutor appearing for the respondent – State of Gujarat.

4] Mr. Syed, learned Senior Counsel for the applicant has submitted that the applicant was on bail during the trial and was ordered to surrender vide order dated 20th July, 2023 by the learned Principal Sessions Judge, Ahmedabad (Rural). He has further submitted that there is no adverse remarks against the present applicant and learned advocate for the applicant has submitted that the present appeal which is preferred by the applicant has been admitted by this Court and it would take considerable long period for final hearing of this appeal and therefore, the judgment and order of sentence is required to be suspended and the applicant may be released on bail during the hearing and final disposal of the captioned appeal. It is, therefore, prayed that the applicant-convict may be enlarged on bail till the final disposal of the appeal on suitable terms and conditions.

5] Learned Additional Public Prosecutor has submitted that the role and involvement of the applicant in the alleged offence

is established beyond reasonable doubt. It is, accordingly, urged to reject the present application.

6] Upon considering the submissions made at bar, it appears that the applicant is required to suffer the sentence imposed upon him. As the applicant is sentenced for a fixed period and the appeal is not likely to be heard in near future, present application for suspension of sentence can be considered in view of the decision rendered in case of ***Bhagwan Rama Shinde V/s. State of Gujarat (1999)4 SCC 421***, as there are no exceptional circumstances pointed out by the learned A.P.P. to refuse/decline the application. No breach of bail condition pending trial or any past conviction is reported to the Court.

7] Accordingly the execution of the sentence imposed vide judgment and order of ***learned Principal Sessions Judge, Ahmedabad (Rural) in Sessions Case No. 160 of 2018*** vide order ***dated 20th July, 2023*** is hereby suspended pending hearing and final disposal of the criminal appeal and the applicant is ordered to be released on bail by executing a fresh bond of ***Rs.25,000/-*** (Rupees Twenty Five Thousand Only) with one surety of the like amount to the satisfaction of the trial Court, on the following conditions that he:-

(i) shall not take undue advantage of liberty or misuse liberty;

(iv) shall not leave India without prior permission of the learned Trial Court ;

(v) 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.

8] Rule is made absolute to the aforesaid extent. *Direct service is permitted.*

VVM

(S. V. PINTO,J)