

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****CRIMINAL MISC.APPLICATION (FOR SUSPENSION OF SENTENCE) NO.  
3 of 2023****In R/CRIMINAL REVISION APPLICATION NO. 1025 of 2023****ANIS BABU ANSARI  
Versus  
STATE OF GUJARAT**

Appearance:

MR VALIMOHAMAMD PATHAN FOR MR. SOEB R. BHOHARIA(2205) for  
the PETITIONER(s) No. 1

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

**CORAM:HONOURABLE MS. JUSTICE S.V. PINTO****Date : 08/11/2023****IA ORDER**

1. Rule. Learned APP waives service of notice of rule for the respondent – State.
2. By way of present application under Section 389 of the Code of Criminal Procedure, 1973, the applicant - accused is seeking suspension of sentence and release on regular bail during pendency of the present revision application against the judgment and order of conviction dated 28.07.2023 passed by the learned 14<sup>th</sup> Additional Sessions Judge, Surat in Criminal Appeal No. 365 of 2021, whereby, the learned Sessions Judge has confirmed the judgment and order dated 21.10.2021 passed by the learned Chief Judicial Magistrate, Surat in Criminal Case No. 122 of 2021, whereby, the

learned Chief Judicial Magistrate, Surat has sentenced the applicant – original accused to undergo one year imprisonment for the offence punishable under Sections 325 and 114 of the IPC and fine of Rs.1,000/- and in default, simple imprisonment of one months.

3. Learned advocate for the applicant – accused submits that both the learned Court below have committed error in law in passing the judgment and order. Learned Judge has failed to appreciate the oral as well as documentary evidence. The learned Judge has not appreciated the fact that the injured has not come before the police for her statement. Now, the dispute is settled between the parties. He submits that the present revision application 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 the harden criminal. 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.
4. 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 and no

interference is required in the order passed by the learned Sessions Judge, Surat and hence, present application may be rejected.

5. Heard learned advocate for the respective parties and perused the document produced on record.
6. 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 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 without entering into the merits of the case, this court is of the opinion that the application requires consideration and accordingly, is allowed. The execution of the sentence in the judgment and order in Criminal Case No. 122 of 2021 passed by the learned Chief Judicial Magistrate, Surat dated 21.10.2021 and confirmed by the learned 14<sup>th</sup> Additional Sessions Judge, Surat in Criminal Appeal No. 365 of 2021 on 28.07.2023 is suspended during pendency of the criminal revision application 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:

- (i) shall not leave India without prior permission of this Court;
- (ii) shall furnished 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.

7. Rule made absolute to the aforesaid extent. Direct service is permitted.

F.S.KAZI.....

(S. V. PINTO, J)