
(2021) 06 GUJ CK 0084

In the Gujarat High Court

Case No : R/Criminal Revision Application No. 387 Of 2021

Patel Mahendrabhai Bhimjibhai

APPELLANT

Vs

State Of Gujarat

RESPONDENT

Date of Decision : 15-06-2021

Acts Referred:

Indian Penal Code, 1860 — Section 279, 304(A), 337

Citation : (2021) 06 GUJ CK 0084

Hon'ble Judges : Ilesh J. Vora, J

Bench : Single Bench

Advocate : Tushar Chaudhary, Krina Calla

Final Decision : Allowed

Judgement

Ilesh J. Vora, J

[1] Rule. Learned APP waives service of notice of rule for and on behalf of the respondent—State.

[2] By way of prayer—6(c) of this application, the applicant—original accused is seeking suspension of sentence imposed vide judgment and order

dated 07.06.2021 passed by learned Sessions Judge, Mehsana passed in Criminal Appeal No.11 of 2019 confirming the conviction vide order dated

05.01.2019 passed by learned 4th Judicial Magistrate, First Class, Mehsana in Criminal Case No.7584 of 2010 and to release him on bail during the

pendency of the aforementioned Criminal Revision Application.

[3] Mr.Tushar Chaudhary, learned advocate for the applicant submitted that the applicant was on bail during the pendency of trial and also pending the

appeal. He has submitted that the learned Magistrate has convicted the applicant under Section 279 of the Indian Penal Code and sentenced him to

suffer simple imprisonment for 6 months and to pay fine of Rs.1000/Â, in default, further simple imprisonment for 30 days and under Section 304(A) of the Indian Penal Code and sentenced him to suffer simple imprisonment for 2 years and to pay fine of Rs.3000/Â, in default, further simple imprisonment for 2 months, and also under Sections 337 of the Indian Penal Code and sentenced him to suffer 3 months simple imprisonment and to pay fine of Rs.200, in default, further simple imprisonment for 10 days. He further submits that more particularly, when all the panch witnesses have turned hostile and the courts below have not considered this important aspect. He further submits that the learned trial Court has imposed very short sentence upon the applicant. Therefore, considering the facts and circumstances of the present case, the sentence may be suspended, and he has urged before this Court to allow the present application.

[4] Mrs. Krina Calla, learned APP for the respondent â?" State strongly opposed for grant of suspension of sentence.

[5] Heard learned advocate for the applicant and learned APP for the respondentÂ?State.

[6] Having heard learned advocates appearing for the respective parties and having gone through the materials available on record and perused the impugned judgment, this Court is of the considered opinion that present application requires consideration and prayer in terms of bail is allowed. The sentence imposed by the judgment and order dated 07.06.2021 passed by learned Sessions Judge, Mehsana passed in Criminal Appeal No.11 of 2019, is hereby suspended pending hearing and final disposal of the Criminal Revision Application. The applicant shall be released on bail by executing fresh bond of Rs.10,000/Â (Rupees Ten Thousand Only) and one surety of like amount to the satisfaction of trial Court on condition that he shall proceed with the Criminal Revision Application as and when it may be listed, and he shall surrender his passport, if having, before the learned trial Court and shall not leave India without prior permission of this Court. Direct service is permitted through eÂ?mode.