

HIGH COURT OF JUDICATURE FOR RAJASTHAN
ATJODHPUR

S.B. Criminal Misc. III Suspension Of Sentence
Application(Appeal) No. 1136/2019

Mustaffa Sheik S/o Shri Munir Khan, Aged About 23 Years,
ByCaste Mohammedan, R/o Gosiya Colony, Gali No. 4,
P.s.Surajpol, Distt. Udaipur. (Presently Lodged In Central
Jail,Udaipur)—petitioner

versus

State, Through P.p.—respondent

HON'BLE MR. JUSTICE SANDEEP

MEHTAOrder04/12/2019Heard learned counsel for the appellant-
applicant andthe learned Public Prosecutor and perused the
material availableon record. The instant third application for
suspension ofsentences has been preferred on behalf of the
appellant-applicantMustafa Sheikh, who has been convicted and
sentenced for theoffences under Sections 307, 323/34 and
324/34 IPC videjudgment dated 12.04.2017 passed by
the learned AdditionalSessions Judge No.3, Udaipur in
Sessions Case No.46/2017 (CISNo.54/2016).As per the custody
certificate placed on record by thelearned Public Prosecutor, the
appellant has remained behind barsfor nearly 4 and half years.
While convicting the appellant for the (2 of 3) [SOSA-
1136/2019]offence under Sections 307 IPC, the learned trial court
awardedsentence of 7 years rigorous imprisonment to him.
Thus, theappellant has suffered well in excess of half of the
maximumsentence awarded to him by the trial court.
The sentencesawarded to the co-accused persons have already
been suspendedby this court. As per the criminal antecedent
report, other thanthe present one, only one more case has been
registered againstthe appellant and that too for Magistrate triable

offences, viz. 143,323, 341, 324 and 149 IPC. Hearing of the appeal is unlikely innear future.In this background and having regard to the facts andcircumstances of the case, I am inclined to release the applicanton bail during pendency of appeal.Accordingly, the application for suspension of sentencefiled under Section 389 Cr.P.C. is allowed and it is ordered that thesentences passed by the learned Additional Sessions Judge No.3,Udaipur vide judgment dated 12.04.2017 in Sessions CaseNo.46/2017 (CIS No.54/2016) against the appellant-applicantMustafa Sheikh S/o Munir Khan shall remain suspended till finaldisposal of the aforesaid appeal and he shall be released on bail,provided he executes a personal bond in the sum of Rs.50,000/-with two sureties of Rs.25,000/- each to the satisfaction of thelearned trial Judge for his appearance in this court on 06.01.2020and whenever ordered to do so till the disposal of the appeal onthe conditions indicated below:-1. That he will appear before the trial Court in themonth of January of every year till the appeal isdecided.2. That if the applicant changes the place ofresidence, he will give in writing his changed address to the trial Court as well as to the counselin the High Court.3. Similarly, if the sureties change their address(s),they will give in writing their changed address tothe trial Court.The learned trial Court shall keep the record ofattendance of the accused-applicant in a separate file. Such file beregistered as Criminal Misc. Case related to original case in whichthe accused-applicant was tried and convicted. A copy of thisorder shall also be placed in that file for ready reference. CriminalMisc. file shall not be taken into account for statistical purposerelating to pendency and disposal of cases in the trial court. Incase the said accused applicant does not appear before the trialcourt, the learned trial Judge shall report the matter to the HighCourt for cancellation of bail.

(Sandeep Mehta), J