

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION NO. 357/2017 IN
CRIMINAL APPEAL NO.224/2017

Shriram s/o Khushal Salame and anr. ..vs.. State of Maharashtra, thr. PSO
P. S. Panchpaoli, Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. H. N. Bhondge, Advocate for applicants.
Mr. R. S. Nayak, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : JUNE 7, 2017

This is an application for suspension of substantive jail sentence and for grant of bail. This Court has already admitted the appeal on 04.05.2017. The record and proceedings were called and it is before this Court.

The present applicants are convicted by the learned Additional Sessions Judge, Nagpur vide judgment dated 06.04.2017 in Sessions Trial No.503/2014, for an offence punishable under Sections 498-A and 304 (B) read with Section 34 of the IPC.

I have heard Mr. Bhondge, learned counsel for the applicants and Mr. Nayak, learned A.P.P. for the non applicant-State. With the assistance of the learned counsel, I have gone to the relevant documents and the evidence of the prosecution witnesses.

The present applicants are parents of the original accused no.1-Ajay. The original accused no.1-Ajay was

married with the deceased Roshni. The record shows that during her lifetime, a complaint was lodged by Roshni herself against her husband alone and the said complaint is on record at Exh.-30. There is no whisper of any allegation against the present applicants who are father-in-law and mother-in-law of the deceased Roshni. Exh.-26, FIR is lodged by Vijay Masram (PW1) father of the deceased on 24.08.2014. The date of the incident is 20.08.2014. Thus, there is a delay of 4 days in lodging the FIR. After perusal of the FIR it is clear that there is no plausible explanation for filing of the FIR at the belated stage. Reading of the FIR and also relevant evidence of the complainant, father of the deceased and also other prosecution witnesses who are closely related to the deceased shows that there are general allegations of harassment against the present applicants.

There is no dispute that during the pendency of the trial, both the applicants were on bail and at no point of time, they have misused the liberty granted to them. The learned counsel for the applicants submits that the fine amount is already deposited.

The sentence is for a fixed duration. Looking to the pendency of the criminal appeals before this Court, it might not be possible to take up the final hearing of the present appeal in near future. In that view of the matter and in view of the fact that the allegations against the present applicants are general in nature, the applicants who are aged about 71 and 65 years of age, I am of the considered view that it is a fit case wherein the Court should exercise its

discretion by granting bail and suspending the substantive jail sentence. Hence, following order is passed.

ORDER

- (i) The criminal application is allowed.
- (ii) The substantive jail sentence imposed upon the applicants by the learned Additional Sessions Judge, Nagpur in Sessions Trial No. 503/2014 shall stand suspended during the pendency of the appeal.
- (iii) The applicants shall be released on bail on they furnishing PR bond in the sum of Rs.10,000/- each with one surety each in the like amount.
- (iv) Both the applicants shall remain present before this Court at the time of final earring of the present appeal.

JUDGE