

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

CRIMINAL APPLICATION (APPR) NO.23/2018

IN

CRIMINAL REVISION APPLICATION NO.5/2018

Atmaram Sheshrao Ubarhande @ Balasaheb

..VS..

The State of Mah., thr. Public Prosecutor, Buldana, District Buldana

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

Court's or Judge's Order

.....
Shri P.S. Gawali, Counsel for the applicant.

Shri N.B. Jawade, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 19, 2018.

1. Heard learned counsel Shri P.S. Gawali for the applicant and learned Additional Public Prosecutor Shri N.B. Jawade for the State.

2. This is an application for suspension of substantive jail sentence and for grant of bail.

3. On 18.1.2018, this Court has admitted the present criminal revision application since it gives rise to the important question.

4. The applicant was convicted by learned 2nd Judicial Magistrate First Class at Buldana in Summary Criminal Case No.1052/2012 vide its judgment and order dated 4.1.2014 for the offence punishable under Section 323 of the Indian Penal Code and

on that count he was directed to suffer 6 months jail sentence and to pay fine of Rs.1,000/-. He was also convicted for the offence punishable under Section 353 of the Indian Penal Code and for that he was directed to suffer 1 year jail imprisonment and to pay a fine of Rs.3,000/-. He was also convicted for the offence punishable under Section 294 of the Indian Penal Code and on that count he was directed to suffer 3 months jail imprisonment and to pay a fine of Rs.3,000/-. The applicant was also further convicted for the offence punishable under Section 504 of the Indian Penal Code and on that count he was directed to suffer rigorous imprisonment for 1 year and to pay a fine of Rs.3,000/-.

All the sentences were directed to run concurrently.

5. Thereafter, the applicant preferred an appeal bearing Criminal Appeal No.3/2014 and learned Additional Sessions Judge at Buldana on 2.1.2018 partly allowed the appeal. Learned Additional Sessions Judge at Buldana set aside the conviction of the applicant for the offence punishable under Section 504 of the Indian Penal Code. However his conviction under Sections 294, 323, and 353 of the Indian Penal Code were upheld by learned Judge of the Lower Appellate Court.

6. After pronouncement of the judgment, the applicant was taken into custody and since then he is in jail.

7. Looking to the quantum of jail sentence and when in near future it will not be possible for this Court to take up the

criminal revision application for its final disposal, and further, at the time of admission, it is pointed out to this Court that 3 persons, who have witnessed the incident, were not examined by the prosecution. In that view of the matter, the applicant has made out a case for suspension of substantive jail sentence during the pendency of the present criminal revision application. Hence, I pass the following order:

ORDER

- (a) The criminal application is allowed.
- (b) Substantive jail sentence imposed upon the applicant by learned 2nd Judicial Magistrate First Class at Buldana in Summary Criminal Case No.1052/2012 vide its judgment and order dated 4.1.2014 which is confirmed by learned Judge of the Lower Appellate Court shall remain suspended during the pendency of the criminal revision application.
- (c) The applicant be released on bail on his executing a P.R. Bond in the sum of Rs.5,000/- with one solvent surety of the like amount.
- (d) Bail before the Lower Appellate Court.

(e) The applicant shall remain personally present before this Court at the time of final hearing of the criminal revision application.

(f) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

...../-