

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

CRIMINAL APPEAL NO.780/2018
Sau. Anjali w/o Narendra Mankar

..VS..

State of Mah., thr. PSO PS Buldhana and anr

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

Court's or Judge's Order

Shri V.G. Wankhede, Counsel for the appellant.
Shri A.M. Joshi, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.
DATED : DECEMBER 14, 2018.

1. Heard learned counsel Shri V.G. Wankhede for the appellant and learned Additional Public Prosecutor Shri A.M. Joshi for the State.
2. In regular Criminal Case No.37/2006, the appellant along with other four accused persons was prosecuted for offence punishable under Section 420 read with Section 34 of the Indian Penal Code. The appellant was arrayed as accused No.1 in the said criminal prosecution. Learned Judicial Magistrate First Class, Buldhana on 9.1.2015 delivered judgment and thereby acquitted all the accused persons.
3. It appears that the State, at whose behest the prosecution was lodged, did not prefer any appeal, however, original informant/respondent No.2 filed

appeal before the Sessions Court, Buldhana and the said appeal was registered as Criminal Appeal No.12/2015. Learned Sessions Judge, Buldhana vide judgment dated 29.10.2108 reversed the judgment of the Trial Court and convicted all the accused persons including the present appellant for offence punishable under Section 420 read with Section 34 of the Indian Penal Code and directed to suffer rigorous imprisonment for 2½ years.

4. After hearing learned counsel for the parties, I am of the view that the appeal needs to be admitted. Hence, **ADMIT**.

5. Since in connected criminal appeal bearing No.727/2018 this Court already called the record and proceedings, no fresh order in the present appeal is required for calling the same.

6. Place the present appeal along with Criminal Appeal No.727/2018.

7. Learned Additional Public Prosecution Shri A.M. Joshi waives Notice of hearing for the State.

Criminal Application (APPA) N.1220/2018

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

2. Heard learned counsel Shri V.G. Wankhede for applicant/original accused No.1 and learned Additional Public Prosecutor Shri A.M. Joshi for the

State.

3. Initially, applicant/original accused No.1 was acquitted by learned Judicial Magistrate First Class, Buldhana for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code. The State did not prefer an appeal, however, original first informant filed an appeal before the Sessions Court, Buldhana and the said appeal was allowed and applicant/original accused No.1 along with others was convicted for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for 2½ years and also directed to pay a fine of Rs.10,000/-. Clause 5 of the operative order of the impugned judgment, shows that applicant/original accused No.1, who was present before the Court, was directed to surrender himself for taking into custody.

4. The present application is filed on affidavit by applicant/original accused No.1. Further, the impugned judgment shows that fine of Rs.10,000/- is paid for and on behalf of applicant/original accused No.1. It is the oral submission of the learned counsel for applicant/original accused No.1 that after the order of conviction, applicant/original accused No.1 was released on bail.

5. In that view of the matter, the present

.....4/-

application is allowed.

6. The substantive jail sentence imposed upon applicant/original accused No.1 by learned Sessions Judge, Buldhana in Criminal Appeal No.12/2015 on 29.10.2108 for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code shall remain suspended during pendency of this appeal.

7. Applicant/original accused No.1-Sau. Anjali w/o Narendra Mankar is directed to be released on bail on she executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety of the like amount to be executed before the Sessions Court, Buldhana.

8. Applicant/original accused No.1 is directed to file the private paper-book.

9. Applicant/original accused No.1 shall remain present before the Court at the time of final hearing of this appeal.

10. With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

...../-