

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

CRIMINAL APPLICATION (APPA) NO.15/2019
IN
CRIMINAL APPEAL NO.274/2004

Keshavrao s/o Sewakram Kosarkar
...Versus...

State of Maharashtra, through Police Station Officer Tiroda P.S., Distt. Gondia

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

Court's or Judge's orders

Shri J.D. Bastian, Counsel for appellant/applicant
Shri V.P. Gangane, APP for respondent
Ms Gayatri Diwe, Counsel h/f Shri P.R. Agrawal (Assist to Prosecution)

CORAM : ARUN D. UPADHYE, J.
DATE : 28/01/2019

1. Heard.
2. This is an application filed by the applicant/appellant for suspension of sentence and release him on bail or in the alternative, the appeal may be taken up for final hearing.
3. The learned Counsel for the applicant/appellant has submitted that the applicant was on bail during the pendency of the appeal. However, he remained absent and therefore, the order of issuing the non-bailable warrant against him was passed on 23/10/2018. The order issuing the non-bailable warrant against him was recalled on

1/11/2018 on the condition that the applicant shall furnish cash security of Rs.1,00,000/- and one solvent surety for Rs.20,000/- within one week before the trial Court. However, the applicant could not furnish the cash security of Rs.1,00,000/- and he came to be arrested and produced before the Court and sent to jail. Thereafter, the application filed by the applicant for suspension of sentence was withdrawn and appeal was kept for hearing on 3/1/2019. The learned Counsel for the applicant, therefore, submitted that as the regular Court is not available for taking up the matter for final hearing, the applicant may be released on bail by suspending the sentence.

4. The learned Additional Public Prosecutor for the respondent/State has submitted that as per the order of this Court dated 1/11/2018, the applicant could not furnish the cash security of Rs.1,00,000/- before the trial Court and therefore, he came to be arrested and sent to jail. He, therefore, prayed that the present application for suspension of sentence and grant of bail be rejected.

5. Considering the submissions of both sides and having gone through the record of the case, it appears that the applicant was on bail during the pendency of the appeal. However, subsequently he remained absent and therefore, the order of issuing the non-bailable warrant against him was passed on 23/10/2018. The order issuing the non-bailable warrant was recalled on 1/11/2018 on the condition that the

applicant shall furnish cash security of Rs.1,00,000/- and one solvent surety for Rs.20,000/- within one week before the trial Court. Thereafter, another application praying for relaxing the condition of furnishing cash security was filed. However, the said application came to be rejected by this Court vide order dated 4/12/2018. The applicant thereafter was arrested and sent to jail. The applicant had filed Criminal Application No.1249/2018 for suspension of sentence and release him on bail, but the same was withdrawn by the applicant.

6. Considering the above facts and circumstances of the case, I am of the view that the applicant/appellant could be released on bail upon certain conditions. The fact that the applicant/appellant was on bail during the pendency of appeal from 2004 to 2018 will have to be taken into consideration for releasing him on bail. Moreover, there is no point to keep him in jail till disposal of the appeal. Hence, I proceed to pass the following order.

ORDER

(i) Criminal Application No.15/2019 is allowed.

(ii) The applicant/appellant be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount.

(iii) Bail before the trial Court.

(iv) The applicant/appellant is directed to attend the Police Station Tiroda, Tah. Tiroda, Distt. Gondia on 1st date of every month commencing from February, 2019 till disposal of the criminal appeal.

(v) The applicant/appellant shall remain present in the Court whenever his presence is required in the appeal.

(vi) Inform the concerned trial Court accordingly.

JUDGE

Wadkar, P.S.