

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

CRIMINAL APEPAL NO.564/2019

Shri Kailash s/o Shankar Gade

..VS..

State of Mah., thr. Deputy Superintendent of Police, Anti Corruption
Bureau, Bhandara, Tahsil and District Bhandara

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

Court's or Judge's Order

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Shri K.P.Sadavarte, Counsel for the Appellant.

CORAM : V.M.DESHPANDE, J.

DATED : AUGUST 19, 2019.

Heard learned counsel Shri K.P.Sadavarte for the appellant. **Admit.** Learned Additional Public Prosecutor Shri V.P.Gangane, waives service for the State.

Criminal Application (APPA) No.739/2019

1. This is an application under Section 389 of the Code of Criminal Procedure for suspension of substantive jail sentence and for grant of bail.

2. By judgment and order of conviction dated 30.7.2019 passed by learned Special Judge (Under Prevention of Corruption Act), Bhandara in Special Criminal (ACB) Case No.11/2015, the applicant is convicted for offences under Section 7 and 13(2) of the Prevention of Corruption Act, 1988. For offence under Section 7 of the Code of Criminal Procedure, the applicant is ordered to

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undergo rigorous imprisonment for 1 year with fine of Rs.5000/- and in default of payment of the fine amount to undergo rigorous imprisonment for 3 months. Insofar as offence under Section 13(2) is concerned, the applicant is ordered to undergo rigorous imprisonment for 2 years with fine of Rs.10,000/- and in default of payment of the fine amount to undergo rigorous imprisonment for 6 months.

3. Learned counsel Shri K.P.Sadavarte for the applicant, submitted that during the course of Trial the applicant was on bail. He submitted that after the impugned judgment, the applicant has already deposited fine Rs.15,000/-. To show the same, he invited my attention to Annexure-B, a photo copy of receipt showing payment of Rs.15,000/-. Learned counsel further submitted that learned Judge of the Court below suspended the jail sentence, till filing of the appeal.

4. Since the jail sentence is for a fixed period, looking to pendency of criminal appeals it would not be possible to take up the present appeal immediately for its final hearing , the present application is allowed as per order below:

ORDER

(i) The criminal application is allowed.

(ii) Judgment and order of conviction dated 30.7.2019 passed by learned Special Judge (Under Prevention of Corruption Act) Bhandara in Special Criminal (ACB) Case No.11/2015, shall remain suspended during the pendency of

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the presence criminal appeal.

(iii) Applicant-Kailash s/o Shankar Gade, be released on bail on he executing a fresh Bond before learned Judge of the Court below in the sum of Rs.1.00 lac with one solvent surety of the like amount.

(iv) The applicant is directed to remain personally present before this Court at the time of final hearing of the present criminal appeal.

(v) During the pendency of the present criminal appeal, the applicant is directed to attend Anti Corruption Bureau at Bhandara once in 6 month.

(vi) With this, the criminal application stands disposed of accordingly.

JUDGE

!! BRW !!

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