

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

CRIMINAL APPLICATION (APPR) NO.299/2019 & 300/2019

IN

CRIMINAL REVISION NO. 223/2019

(Mohd. Alam Mohd. Salim and another vs. State of Maharashtra)

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

Court's or Judge's order

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Mr. R.K. Tiwari, Advocate for the applicants
Mr. Amit Chutke, APP for respondent-State
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CORAM : MRS.SWAPNA JOSHI, J.

DATED :25th September, 2019

By this Application, the applicants prays for suspension of jail sentence imposed upon them and grant of bail.

The applicants have been convicted for the offence punishable u/s. 324 r/ws.34 and 323 r/ws. 34 of IPC by learned Judicial Magistrate, First Class, Nagpur, vide order dated 06.05.2016. The applicants were sentenced to undergo SI for three months and to pay a fine of Rs. 1000/- in default SI for one month u/s 324 r/ws.34 of IPC; and SI for one month and to pay a fine of Rs. 1000/- i/d. SI for one month u/s 323 r/ws.34 of IPC. The said judgment came to be partly allowed by the learned Additional Sessions Judge Nagpur vide its order dated 20.6.2019.

I have heard Shri R.K.Tiwari, learned counsel for the applicants and Mr. Amit Chutke, learned A.P.P. for the respondent.

Learned counsel for the applicants submits that although allegations against the applicants are that they caused hurt to PW1 and PW4 by means of spanner and thereby committed an offence punishable u/s 324 of IPC, however, the Medical Officer has not been examined before the trial Court and therefore, the injuries are not proved. It is submitted that there is no corroboration to the testimony of PW1 and PW4 on the aspect of causing injuries to them. He further submitted that the applicants were on bail all throughout and that they have not misused the liberty granted to them. Moreover they have also deposited the fine amount in the trial Court.

Taking into consideration the nature of allegations against the applicants, also the fact that the applicants were on bail all throughout and the substantive jail sentences were already suspended and they were released on bail by the learned trial Judge, I am of the view that the applicants are entitled to suspension of jail sentence and grant of bail. Hence the following order:

ORDER:

- 1) Criminal Application No. 299/2019 is allowed.
- 2) The substantive jail sentence imposed against the

applicants by the learned Addl. Sessions Judge Nagpur in Cri. Appeal No.111/2016 dated 20.06.2019 shall remain suspended during the pendency of the present Revision.

3) The applicants shall be released on bail by executing fresh bonds of the same amount as in the trial court.

4) The learned Judge before whom the bail bonds will be executed shall ensure that before execution of the bail bonds, the entire fine amount is deposited by the applicants.

The Application stands disposed of.

CRI. APPR. NO.300/2019

The Application for grant of time for filing certified copy of judgments is granted. The same be filed within a period of three weeks. Cri. APPR is disposed of.

JUDGE

Sahare