

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

CRIMINAL APPEAL NO.23/2020
Chotu @ Purushottam Digambar and ors

..VS..

State of Mah., thr. its PSO PS Patur, Tahsil Patur, District Akola

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

Court's or Judge's Order

Shri N.R.Tekade, Counsel for Appellants.

CORAM : V.M.DESHPANDE, J.
DATED : JANUARY 15, 2020.

1. Heard learned counsel Shri N.R.Tekade for appellants.
2. **Admit.**
3. Learned Additional Public Prosecutor Shri N.B.Jawade, waives service on behalf of the State.

Criminal Application (APPA) No.37/2020

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard learned counsel Shri N.R.Tekade for applicants and learned Additional Public Prosecutor Shri N.B.Jawade for the State.
3. Applicants were tried before learned Sessions Judge, Akola in Sessions Case No.161/2016. After a full dressed trial, applicants were found guilty by judgment and

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order of conviction dated 3.12.2019 passed by learned Sessions Judge, Akola for offences punishable under Sections 143, 427, 504, and 506 read with Section 149 of the Indian Penal Code; under Section 163 of the Bombay Village Panchayat Act, 1958, and under Section 3(1)(v) and (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

For offence under Section 143 read with Section 149 of the Indian Penal Code, applicants were sentenced to suffer R.I for 3 months and to pay a fine Rs.500/- each and in default of payment of the fine amount to suffer further R.I. for 15 days.

For offence under Section 427 read with Section 149 of the Indian Penal Code, applicants were sentenced to suffer R.I. for 1 year and to pay a fine Rs.1000/- each and in default of payment of the fine amount to suffer further R.I. for 3 months.

For offence under Section 504 read with Section 149 of the Indian Penal Code, applicants were sentenced to suffer R.I. for 2 years and to pay a fine Rs.1000/- each and in default of payment of the fine amount to suffer further R.I. for 3 months.

For offence under Section 506 read with Section 149 of the Indian Penal Code, applicants were sentenced to suffer R.I. for 2 years and to pay a fine Rs.1000/- each and in default of payment of the fine amount

to suffer further R.I. for 3 months.

For offence under Section 163 of the Bombay Village Panchayat Act, 1958, applicants were sentenced to suffer R.I. for 1 month and to pay a fine Rs.300/- each.

And for offence under Section 3(1)(v) and (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, applicants were sentenced to suffer R.I. for 2 years and to pay a fine Rs.2000/- each and in default of payment of the fine amount to suffer further R.I. for 3 months.

Learned Judge of the Court below directed that all sentences shall run concurrently.

4. Learned counsel Shri N.R.Tekade for applicants, submitted that an application under Section 389 of the Code of Criminal Procedure for suspension of jail sentences and grant of bail was filed before learned Sessions Judge, Akola. The said application is at Exhibit 99 on record of the Court below. The said application is taken on record and marked as Exhibit-X for purposes of identification. Learned Judge of the Court below, exercising powers under Sub section (3) of Section 389 of the Code of Criminal Procedure, suspended jail sentences for a period of 45 days from 3.12.2019 subject to applicants' furnishing fresh P.R.Bonds and sureties in the sum of Rs.10,000/- each and depositing of the fine amount.

5. Applicants have deposited entire fine amount. Receipts showing payment by each of them are annexed

along with this application and are available on record from pages Nos.57 of 63.

6. Looking to the quantum of punishment imposed upon applicants, learned Judge of the Court already suspended jail sentences, and applicants were on bail, I pass following order:

ORDER

(1) The criminal application is allowed.

(2) The substantive jail sentence imposed upon applicants, by judgment and order of conviction dated 3.12.2019 passed by learned Sessions Judge, Akola in Sessions Case No.161/2016, shall remain suspended during the pendency of the present appeal.

(3) Applicants be released on bail on they executing fresh P.R.Bonds, within a period of one month from today, in the sum of Rs.10,000/- by each of them with one solvent surety of the like amount by each of them.

(4) Applicants shall attend Patur Police Station, Tahsil Patur, District Akola once in 6 months.

(5) Applicants shall remain personally present

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at the time of final hearing of the appeal before this Court.

With this, the criminal application stands disposed of accordingly.

JUDGE

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