

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

CRIMINAL APPLICATION NO. 405 OF 2020 IN
CRIMINAL APPEAL NO. 385 OF 2020

Sk. Irfan s/o Sk. Rahim
..vs..
State of Maharashtra, thr. P.S.O.

WITH

CRIMINAL APPLICATION NO. 18 OF 2020 IN
CRIMINAL APPEAL NO. 17 OF 2020

Firoz Khan s/o Abdul Rafique
..vs..
State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Shri Bharat Borikar, Advocate for applicant/appellant in
application no. 405 of 2020.

Shri S.D. Malke, Advocate for applicant/appellant in application
no. 18 of 2020.

Mrs. M.H. Deshmukh A.P.P. for respondent-State.

CORAM : VINAY JOSHI, J.

DATED : 29/09/2020

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Heard both sides.

Both the applicants/accused are convicted in Special Cri.(N.D.P.S) Case No. 16 of 2015 for the offence punishable under Sections 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as "the NDPS Act") and sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.20,000/- with stipulation of default. The applicants/accused are seeking bail by making submission

of merits as well as canvassing that already they have undergone 50% term of imprisonment. Moreover, it is pointed out that co-accused namely Sk. Wakil s/o Sk. Munir who has filed separate appeal bearing No. LD-VC-CR-SB-NO. 321 of 2020 in which his substantive sentence was suspended by this Court vide order dated 12.06.2020.

3. Learned A.P.P. opposed the prayer, however, I do not find any reason to make any discrimination for the present applicants who are sailing in the same boat. Already near-about 50% quantum of punishment has been undergone which is sufficient to invoke the discretionary power of suspension. In view of that, substantive sentence of both the applicants namely Sk. Irfan s/o Sk. Rahim in Criminal Application no. 405 of 2020 and Firoz Khan s/o Abdul Rafique in Criminal Application No. 18 of 2020 is hereby suspended till the final disposal of appeals.

4. Both the applicants/appellants are released on bail on same terms and conditions on which they were released on bail by the Special Court.

5. Applications are allowed and disposed of accordingly.

6. This order be communicated to the Counsel appearing for the parties, either on the email address or on WhastApp or by such other mode, as is permissible in law.

JUDGE