

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

CRIMINAL APPLICATION (APPA) NO. 447/2020
IN
CRIMINAL APPEAL NO. 372/2020

Sheikh Hussain Sheikh Mehmood Qureshi
..VS..
State of Maharashtra

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

Court's or Judge's orders

Shri M.N. Ali, Advocate for the applicant/appellant
Shri M.K. Pathan, APP for the non-applicant/respondent

CORAM : Z.A.HAQ & AMIT B. BORKAR, JJ.
DATED : 05/11/2020

1] By this application, the appellant has prayed for temporary bail for 15 days to make preparations for marriage of his niece and to attend the marriage.

2] The appellant is convicted for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to undergo life imprisonment and to pay fine. The appeal is admitted on 01/10/2020 and is pending for final hearing. On 23/10/2020, Criminal Application (APPA) No. 391/2020 filed by the appellant seeking suspension of sentence and praying for directions to the respondent – State to release him on bail was heard by this Court and when it was to be dismissed, learned advocate for the appellant sought permission to withdraw the criminal application and accordingly, it was dismissed as withdrawn. Now, this criminal application is moved seeking temporary bail. The appellant

has not pointed out why this alternative prayer was not made in Criminal Application (APPA) No. 391/2020. As per the practice which this Bench is following, we are ready to take up the appeals filed by the convicts who are in jail at the time of considering the criminal application praying for suspension of sentence. We find that the office of Public Prosecutor is always ready to assist the Court for final hearing of the appeals. Had it been pointed out on behalf of the appellant that the marriage of his niece is to be performed on 18/11/2020 and had the appellant / Advocate for the appellant shown willingness to argue the appeal on merits, we would have taken up the appeal itself for final hearing on 23/10/2020. A doubt is created in our minds that this application is moved on the last working day of this Bench to obtain temporary bail, avoiding the final hearing of the appeal. It is a matter of common knowledge that the accused who are convicted for the offence punishable under Section 302 of the Indian Penal Code and whose applications seeking suspension of sentence have been rejected, there is every chance of their absconding when released on temporary bail and many such matters are coming before us.

3] Considering the above facts, we are not inclined to grant the prayer made in the criminal application.

4] The criminal application is **dismissed**.

JUDGE

JUDGE