

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

CRIMINAL APPLICATION (APPA) NO.1018/2019

IN

CRIMINAL APPEAL NO.777/2019

Dukhiram s/o Subhash Biswas

..vs..

State of Mah., thr. PSO PS Ashti, District Gadchiroli

.....
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 Aniruddha Anantkrishnan, Counsel for the Applicant.
Shri S.M.Ghodeswar, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.

DATED : JANUARY 22, 2020.

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard learned counsel Shri Aniruddha Anantkrishnan for the applicant and learned Additional Public Prosecutor Shri S.M.Ghodeswar for the State.
3. This appeal was admitted on 3.12.2019 and consideration of this application was deferred, till receipt of record and proceedings of the case. Now, record and proceedings are received and placed on record.
4. By judgment and order of conviction dated 14.11.2019 passed by learned Sessions Judge, Gadchiroli in Sessions Case No.16/2017, the applicant was convicted for offence punishable under Section 304B of the Indian Penal Code and for that he was sentenced to suffer rigorous

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imprisonment of 7 years and to pay a fine Rs.1000/0 and in default of payment of the fine amount to suffer further rigorous imprisonment for 3 months.

5. First Information Report is lodged by Paritosh Mandal (PW3) with Ashti Police Station, Gadchiroli. The report of Paritosh Mandal is at Exhibit 26. Printed First Information Report is at Exhibit 27. Offence punishable under Section 302 read with Section 34 of the Indian Penal Code was registered against the applicant and other 3 persons. After completion of investigation, challan was presented. Case was tried as sessions case. Initially, under Exhibit 16 against 4 accused persons including the present applicant charge was framed for offence punishable under Section 302 read with Section 34 of the Indian Penal Code. An additional charge was framed on 21.8.2019 against them for offence punishable under Section 304B read with Section 34 of the Indian Penal Code. By the judgment and order of conviction, impugned in the appeal, learned Judge of the Court below acquitted remaining 3 accused persons, however convicted the applicant.

6. Evidence and the First Information Report, show that allegations are near about identical against the applicant as allegations were made against remaining accused persons. After perusing the impugned judgment and order of conviction, I am of view that second thought is necessary. The applicant was on bail during trial and at no point of time he misused the liberty granted to him in his

favour.

7. In this view of the matter, I pass following order:

ORDER

(1) The criminal application is allowed.

(2) The substantive jail sentence imposed upon the applicant, by judgment and order of conviction dated 14.11.2019 passed by learned Sessions Judge, Gadchiroli in Sessions Case No.16/2017, shall remain suspended during the pendency of the present appeal.

(3) The applicant is directed to be released on bail on he executing a P.R.Bond in the sum of Rs.15,000/- with one solvent surety of the like amount.

(4) Learned Judge of the Court below before whom the bail bonds will be executed shall ensure before releasing of the applicant on bail that the applicant has deposited entire fine amount, if not already deposited.

(5) The applicant is directed to attend Ashti Police Station, Gadchiroli once in a 6 month during the pendency of the present appeal.

(6) The applicant shall remain personally present before this Court at the time of final hearing of the appeal.

With this, the criminal application stands disposed of accordingly.

JUDGE

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