

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

CRIMINAL APPLICATION (APPA) NO. 1079 OF 2019
IN
CRIMINAL APPEAL NO. 828 OF 2019

Vinod Sukhdev Bawane .Vs. State of Maharashtra, through PSO, PS,
Babhulgaon, Dist. Yavatmal.

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

Court's or Judge's orders.

Mr.R.S. Kurekar, Advocate for applicant.
Mr. P.S. Tembhare, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : JANUARY 20, 2020.

This is an application under Section 389 of the Code of Criminal Procedure for suspension of substantive jail sentence and grant of bail.

This appeal was admitted on 18.12.2019 and records and proceedings were called. Accordingly, records and proceedings are received.

Heard Mr. R.S. Kurekar, learned counsel for the applicant and Mr. P.S. Tembhare, learned Additional Public Prosecutor for non applicant-State.

Applicant stands convicted by the learned Additional Sessions Judge, Yavatmal in Sessions Trial No.60/2014 for the offence punishable under Sections 3(2)(e) and 4 of the Prevention of Damage to Public Property Act. For the offence punishable under Sections 3(2)(e), the applicant is directed to suffer rigorous imprisonment two

years and pay fine amount of ₹1,000/- and for the offence punishable under Section 4, the applicant is directed to suffer rigorous imprisonment three years and pay fine amount of ₹1,000/- with default clause.

It is the submission of the learned counsel for applicant that during the trial the applicant was on bail and that he never misused the liberty granted to him. He also submits that after conviction, the learned Judge of the trial Court passed order dated 06.12.2019 below Exhibit 51 and suspended the substantive jail sentence. He produced the certified copy of the application below Exhibit 51 along with order passed thereon. It is taken on record and marked as "Exhibit-X" for the purpose of identification.

Perusal of the order dated 06.12.2019 passed by the learned Additional Sessions Judge, Yavatmal below Exhibit-51 shows that the applicant was on bail during the trial and applicant has already deposited the fine amount. Therefore, learned Judge of trial Court suspended the substantive jail sentence.

Looking to the fact that already the substantive jail sentence is suspended by the learned trial Court and looking to the quantum of punishment and after perusal of the impugned judgment, I am of the view that it requires second thought. Consequently, I pass the following order:

ORDER

- (i) The application is allowed.
- (ii) The substantive jail sentence imposed upon the applicant by learned Additional Sessions Judge, Yavatmal in

Sessions Trial No.60/2014 for an offence punishable under Sections 3(2) (e) and 4 of the Prevention of Damage to Public Property Act, shall remain suspended during pendency of this appeal.

(iii) Applicant – Vinod Sukhdev Bawane be released on bail on he executing fresh bail bond in the sum of Rs.10,000/- with one solvent surety in the like amount.

(iv) The fresh bail bonds be executed before the Court below within a period of one month from today.

(v) Applicant is directed to attend Police Station, Babhulgaon, Tq. Babhulgaon, Dist. Yavatmal once in six months during pendency of this appeal.

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

The application is disposed of.

JUDGE