

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

CRIMINAL REVISION APPLICATION NO. 23 OF 2021

Rambir Singh Barkoor Singh and anr.

..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 A.A. Dhawas, Advocate for Applicants.

Shri A.M. Deshpande, A.P.P. for Non-applicant.

CORAM : VINAY JOSHI, J.

DATED : 19/03/2021

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

2. **Admit.** Learned A.P.P. waives notice for Non-applicant.

3. Call for the Record and Proceedings.

CRIMINAL APPLICATION (APPR) NO.54 OF 2021

Heard.

2. The Applicants/Accused are seeking for suspension of execution of sentence passed by learned Judicial Magistrate First Class, Wani in Regular Criminal Case No.110 of 2008 which was confirmed in Criminal Appeal No.13 of 2012 vide judgment and order dated 09.02.2021. The Trial Court has convicted both the Applicants along with one other for the offence punishable under Section 377 and 506 read with 34 of the Indian Penal Code for which the maximum sentence imposed was to under go rigorous imprisonment for two years and three

moths along with total fine of Rs.6,000/- each. The Appellate Court has confirmed the sentence of both the Applicants for the offence punishable under Section 377 read with 34 of the Indian Penal Code, however, acquitted them for the offence punishable under Section 506 of the Indian Penal Code. In separate Appeal of third Accused (Criminal Appeal No.12 of 2012) he came to be acquitted.

3. Since the Appeal came to be dismissed to the extent of conviction under Section 377 of the Indian Penal Code, the sentence imposed to suffer rigorous imprisonment for two years and three months along with fine of Rs.5,000/- would stand. It is submitted that during pendency of trial as well as Appeal, both the Applicants were on bail and the Applicants have deposited the fine amount. The Applicants are in jail from 09.02.2021. Learned Counsel for the Applicants has submitted that there are arguable points on merits which requires consideration. The Appeal will take its own time for disposal in accordance with law.

4. Having regard to the term of imprisonment, it is appropriate to suspend the execution of sentence, otherwise irreversible position may occur. In view of that, following order is passed :

- (a) Execution and implementation of the impugned sentence passed in Regular Criminal Case No.110 of 2008 and as confirmed in Criminal Appeal No.13 of 2012 is suspended till final disposal of Appeal. In the meantime, both the Applicants namely 1. Rambir Singh Barkoor Singh, 2. Baldir Singh Bhoop Singh shall be

released on bail on their furnishing P.R bond of Rs.15,000/- each with one surety in the like amount.

(b) The Criminal Application stands disposed of.

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JUDGE