

N THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL REVISION APPLICATION NO.24 OF 2021

Bhagwat s/o Tukaram Bhendarkar

Vs.

State of Maharashtra, through PSO, PS Hudkeshwar, Nagpur

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

Court's or Judge's orders.

Shri A.K. Bhangde, Advocate for applicant.
Smt. M.A. Barabde, APP for non-applicant

CORAM : V.M. DESHPANDE, J.
DATE : 1st MARCH, 2021.

Heard Shri A.K. Bhangade, learned counsel for the applicant and Smt. M.A. Barabde, learned Additional Public Prosecutor for non-applicant.

(2) In the intervening night of 14.04.2014 and 15.04.2014, Dnyaneshwar Chute committed suicide by hanging himself in his house. The said incident was reported by his wife Smt. Vijaya Chute to the Police Station, Hudkeshwar. On that, a crime was registered against the present applicant vide Crime No.98 of 2014 for the offence punishable under Section 306 of the Indian Penal Code. During the investigation, a suicide note (Exhibit-31) was seized by the Investigating Officer from the cloths of the deceased. The prosecuting agency also examined PW-4 Ravindra Goley, Handwriting Expert, however, his evidence was discarded by the learned Assistant Sessions Judge, Nagpur before whom the trial was conducted.

(3) The evidence of PW-4-Handwriting Expert was not accepted by the Court below regarding of Exhibit-31 on the ground that there was least chance of manipulation from prosecution side.

(4) After having gone through the impugned judgment and in the light of the fact that evidence of Handwriting Expert was discarded, I am of the view, that the applicant has made out a case for admission. Hence, **Rule.**

(5) Call for record and proceedings of Sessions Trial No.69 of 2015 decided by the learned Assistant Sessions Judge, Nagpur on 20.11.2015 together with Criminal Appeal No.182 of 2016 decided by the learned Sessions Judge, Nagpur on 12.02.2021.

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(6) This is an application for suspension of substantive jail sentence and for grant of bail.

(7) The applicant was prosecuted for the offence punishable under Section 306 of the Indian Penal Code.

(8) The investigation has culminated into registration of Sessions Trial No.69 of 2015. The learned Assistant Sessions Judge, Nagpur, found that the prosecution has proved its case and therefore, convicted the applicant for the

offence punishable under Section 306 of the I.P.C. The applicant was directed to suffer rigorous imprisonment for five years and to pay a fine of Rs.5,000/-. Being dissatisfied with it, the applicant preferred Criminal Appeal No.182 of 2016 before the learned Sessions Judge, Nagpur. Learned Sessions Judge, Nagpur vide judgment and order dated 12.02.2021 partly allowed the appeal filed on behalf of the applicant. Though the conviction was maintained, he reduced the quantum of jail sentence from five years to two years. There was no reduction in the fine amount. Against that the present revision is filed before this Court.

(9) Today, after hearing the learned counsel for the applicant and learned Additional Public Prosecutor for the non-applicant and after having gone through the impugned judgment and order, the revision is admitted for final hearing.

(10) The applicant was on bail during the trial and also during the pendency of the criminal appeal as it could be seen from the operative portion of both the judgments.

(11) The learned counsel for the applicant submits that the applicant is in jail after the pronouncement of the sentence by the learned Appellate Court.

(12) Looking at the quantum of the sentence imposed upon the applicant and the fact that the applicant has made

out an arguable case a discretion can be exercised in favour of the applicant. Consequently, I pass the following order

ORDER

- (i) The criminal application is allowed.
- (ii) The substantive jail sentence imposed upon the applicant by the learned Assistant Sessions Judge, Nagpur on 16.08.2016 in Sessions Trial No.69 of 2015 convicting the applicant for the offence punishable under Section 306 of the Indian Penal Code together with judgment and order dated 12.02.2021 passed by the learned Additional Sessions Judge, Nagpur in Criminal Appeal No.182 of 2016, shall remain suspended during pendency of this revision.
- (iii) Applicant – Bhagwat s/o Tukaram Bhendarkar be released on bail on he executing PR bond in the sum of Rs.15,000/- with one solvent surety of the like amount.
- (iv) The bail bonds to be executed before the learned Trial Court.

(v) The applicant is directed to attend Police Station, Hudkeshwar, Nagpur once in three months during pendency of this revision.

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

(vii) The application is disposed of.

JUDGE

Wagh