

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

CRIMINAL APPEAL NO.150/2021

WITH

CRIMINAL APPLICATION (APPA) NO.233/2021

Gurudas Maruti Zade

-VERSUS-

State of Maharashtra through P.S.O., P.S. Lahiri, Tahsil Bhamragadh, District Gadchiroli.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R.R. Vyas, Advocate for applicant/appellant.
Shri S.A. Ashirgade, A.P.P. for respondent/State.

CORAM : VINAY JOSHI, J.

DATE : MARCH 23, 2021.

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

2. Heard learned counsel for the appellant and learned
Additional Public Prosecutor for the respondent/State.

3. This is an appeal of convicted accused challenging the
judgment and order of conviction passed in Special Atrocity Case
No.2/2015 by Additional Sessions Judge, vide its judgment and
order dated 16/03/2021.

4. **ADMIT.**

5. Learned Additional Public Prosecutor waives service of
notice on merit.

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CRIMINAL APPLICATION (APPA) NO.233 OF 2021

This is an application under Section 389 of the Code of Criminal Procedure seeking suspension of execution of sentence passed by learned Additional Sessions Judge/ Special Court, Gadchiroli in Special Atrocity Act No.2/2015.

2. The appellant/accused was convicted by Sessions Court, Gadchiroli, for an offence punishable under Section 354 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for four years and to pay fine of Rs.5000/- with stipulation of default. The accused was acquitted from rest of the charges.

3. Shri Vyas, learned advocate for the applicant has pointed towards certain improbability and inconsistency in the evidence to impress that the appellant has arguable case of merit. Moreover, he has pointed out that there is delay of one month in lodging of First Information Report. The appellant was on bail during trial and now from the date of conviction i.e. from 16/03/2021, he is in jail. The appellant has deposited fine amount before the trial Court. The fixed term of imprisonment which has been imposed is of four years. The appeal will take its own time for disposal according to law. If the appellant remains in jail then in case of his success irreversible position may occur. Having

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regard to all these circumstances, he has made out a case for grant of suspension.

4. Criminal Application is allowed and disposed of.

5. The execution of substantive sentence passed in Special Atrocity Case No.2/2015 dated 16/03/2021 is hereby suspended till final disposal of the appeal.

6. In the meantime, the appellant be released on bail on his furnishing PR Bond of Rs.15,000/- with one surety in the like amount.

JUDGE

R.S. Sahare