

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

CRIMINAL APPLICATION (APPA) NO. 289 OF 2021
IN
CRIMINAL APPEAL NO. 188 OF 2021

Dharmanna s/o Ramchandra Gurav

...Versus...

State of Maharashtra through PSO, P.S. Washim (City), Distt. Washim

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

Court's or Judge's orders

Shri Amol M. Jaltare, Advocate for the applicant/appellant
Shri I.J. Damle, A.P.P. for respondent/State

CORAM : N.B.SURYAWANSHI, J.
DATE : 04/05/2021

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

2. This is an application under Section 389 of the Code of Criminal Procedure seeking suspension of substantive sentence of imprisonment. The applicant has been convicted by the learned Sessions Judge, Washim in Special Atrocity Case No.32/2017, under Section 376(2)(n) of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for seven years and to pay a fine of Rs. 5000/- with default clause. He is also convicted under Section 3(1) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and sentenced to suffer

rigorous imprisonment for four years and to pay a fine of Rs. 1000/-. He is further convicted under Section 507 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year. He is also convicted under Section 67 of the Information Technology Act and sentenced to suffer rigorous imprisonment for one years and to pay a fine of Rs. 1000/-.

3. The applicant was an under-trial prisoner and has already undergone three years and ten months of imprisonment. The applicant has deposited the fine. According to the learned Advocate for the applicant, the applicant has no criminal antecedents.

4. In the light of ratio of the Hon'ble of the Apex Court in **Kamal Vs. State of Haryana, 2004 (13) SCC 526**, since the applicant has already undergone more than half of his sentence, the applicant deserves to be released on bail. Hence, the following order:

(i) The criminal application No. 289/2021 is allowed.

(ii) The substantive sentence of imprisonment imposed on the applicant by the learned Sessions Judge in Special Atrocity Case No.32/2017, is hereby suspended on applicant furnishing P.R. Bond in the sum of Rs.15000/- with one surety in the like amount in the Trial Court.

5. Criminal application is disposed of.

JUDGE