

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

CRIMINAL APPLICATION [APPA] NO.398/2021
IN CRIMINAL APPEAL NO. 291/2021.

Balaji Isa Bore

-VERSUS-

The State of Maharashtra, through P.S. Sironcha, 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.M. Daga, Advocate for the Appellant/applicant.
Shri A.M. Kadukar, Advocate for Respondent.

CORAM : VINAY JOSHI, J.

DATE : JULY 28, 2021.

Hearing was conducted through Video
Conferencing.

2. The applicant/appellant is seeking suspension of sentence passed in Sessions Case No.124/2015 by the Sessions Judge, Gadchiroli on 20.06.2021, holding the appellant guilty for the offence punishable under Sections 376, 313, 315, 328 and 342 of the Indian Penal Code. The maximum sentence imposed by the trial Court is to undergo rigorous imprisonment for 7 years along

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with total fine of Rs.33,500/-.

3. It is submitted that at the most it was a case of consensual relationship. In that light, the learned Counsel for the appellant/applicant took me through the evidence of the victim, a major lady. She has stated that the applicant asked her to maintain sexual relations since his wife was not conceiving. She stated the story of long standing relationship in between them. In evidence she has stated that as the appellant/applicant refused to maintain her, it caused her to file report.

4. During trial, the appellant/applicant was on bail. While releasing applicant on bail, this trial Court has considered the aspect that the victim was major on the date of incident and physical relationship was over a long period. The contention of appellant/applicant that he has fair chances of success in the appeal, requires consideration.

5. The appellant /applicant has already deposited the entire fine amount in the trial Court.

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The appeal will take its own time for disposal. The maximum sentence is of a fixed term of imprisonment. Further no exceptional circumstances has been pointed for denial of suspension of sentence. In view of that following order is passed.

- (i) Criminal Application is allowed and disposed of.
- (ii) The execution of substantive sentence passed in Sessions Case No. 124/2015 by the Sessions Judge, Gadchiroli on 20.06.2021, holding the appellant guilty for the offence punishable under Sections 376, 313, 315, 328 and 342 of the Indian Penal Code, stands suspended till the final disposal of the Criminal Appeal.

In the meantime, the appellant/ applicant – Balaji Isa Bore be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

Rgd.

JUDGE