

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

Criminal Application (APPA)No. 482/2019 in
Criminal Appeal No. 350/2019

Jitendra @ Jitu Manohar Somkuwar V/s State of Maharashtra, thr. P.S.O., Arvi, dist. Wardha.

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

Court's or Judge's orders.

Mr Tarun Parmar, advocate (appointed) for applicant.
Ms Shamsi Haider, APP for respondent.

CORAM: N.B.SURYAWANSHI,J.

DATE: 22/02/2021.

The applicant is convicted by the learned Sessions Judge, Wardha in Sessions Case No.17/2014 for the offence punishable under Section 376 (2) (I) of the Indian Penal Code and sentenced to suffer imprisonment for ten years and to pay a fine of Rs.5000/-with default sentence. This application is filed by the applicant/appellant seeking suspension of sentence and for releasing him on bail.

2] Heard learned advocate for the applicant and learned Additional Public Prosecutor for State.

3] Learned advocate for the applicant has submitted that the learned trial Court has committed an error in placing the reliance on the sole testimony of the prosecutrix. There was enmity between the first informants (sisters of the prosecutrix) and the accused, because of which the accused / applicant was falsely implicated in the alleged

crime. The applicant was on bail during the trial and he has not misused the facility of bail. Therefore, he prayed that the applicant be released on bail and sentence be suspended.

4] Learned Additional Public Prosecutor on the other hand submitted that the learned trial Court has properly appreciated the evidence and has rightly believed the sole testimony of the prosecutrix by assigning a cogent reason, the learned trial Court has convicted the applicant. According to her, since the sentence of 10 years was imposed on the applicant merely because he was on bail during the trial, this cannot be ground to release him on bail. She, therefore, prayed that the application deserves to be rejected.

5] It appears from the record that by this time, the applicant has undergone almost 6 years of imprisonment. The applicant is the sole bread earner of his family. Taking into consideration the pendency of the criminal appeals, this appeal is not likely to be heard finally in the near future.

6] Considering these aspect, the application deserves to be allowed and the same is hereby allowed.

7] The applicant is directed to be released on bail on furnishing a personal bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one surety of like amount, after the

applicant deposits the fine, if not already deposited.

8] The criminal application is allowed accordingly.

JUDGE

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