

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

CRIMINAL APPEAL NO. 405 OF 2021

Jyoti @ Jiya Uttamsingh Ajit (In jail)

..vs..

State of Maharashtra, thr.P.S.O.

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

Court's or Judge's orders

Shri S.V. Bhutada, Advocate for applicant/appellant.
Shri M.J. Khan, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATED : 28/10/2021

Stand over to 23.11.2021

CRIMINAL APPLICATION (APPA) NO.558 OF 2021

Heard.

2. This is an application for suspension of execution of sentence passed in Sessions Trial No.329 of 2021. The Trial Court held the applicant/appellant - Jyoti @ Jiya Ajit (accused no.2) guilty for the offence punishable under Sections 381 and 420 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for 5 years along with total fine of Rs.10,000/- with default clause. It is submitted that the applicant lady was working as a Staff Nurse in the Hospital, who has allegedly stolen Remdesivir vial and handed over to the co-accused. It is contended that the Panchanama is suspicious as well as there is no supporting material that Remdesivir vial were missing from the Hospital. Some inconsistencies and

improbabilities of the evidence are pointed out.

3. Having regard to the submission and after going through the impugned judgment and order, it reveals that the contention requires consideration.

4. The applicant/appellant-lady was on bail during trial and having regard to the nature of accusation, there are no chances of repetition of crime. Normally, when the accused is sentenced with fixed terms of imprisonment, the Appellate Court to suspend the execution of sentence unless exceptional circumstances are made out. If on merits, the appellant succeeds, then there would be irreversible position about the period, which she has undergone. Having regard to these facts, following order :

- (a) The Criminal application stands allowed.
- (b) The execution of substantive sentence passed in Sessions Trial No.329 of 2021 by the Additional Sessions Judge, Nagpur vide order dated 04.09.2021 stands suspended till the final disposal of appeal.
- (c) In the meantime, the applicant/appellant – Jyoti @ Jiya Uttamsingh Ajit be released on bail on her furnishing P.R. bond of Rs.50,000/- with one solvent surety in the like amount.
- (d) The Trial Court shall ensure about the deposit of fine amount before releasing the applicant/appellant on bail.

JUDGE