

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

CRIMINAL APPEAL NO.466/2021
WITH
CRIMINAL APPLICATION (APPA) NO.634/2021

Ashwin S/o Haribhau Mahar,

-VERSUS-

State of Maharashtra, through Superintendent of Police, ACB, Bhandara.

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

Court's or Judge's Orders

Shri Prakash Naidu, Advocate for the appellant.
Shri A.R. Chutke, A.P.P. for respondent/State

CORAM : VINAY JOSHI, J.
DATE : NOVEMBER 24, 2021.

Heard.

2. **ADMIT.**
3. Issue notice to the respondents.
4. Learned APP waives service of notice for respondent/State.
5. Call for R and P.

Criminal Application (APPA) No.634/2021

1. This is an application seeking suspension of execution of sentence passed by Trial Court in Special ACB Case No.12/2016, by which the applicant (accused) was convicted for the offence punishable under Sections 7 and 13 (1)(d) read with 13 (2)(d) of the Prevention of Corruption Act. The Trial Court has imposed maximum sentence to undergo rigorous imprisonment for four years along with total fine of Rs.20,000/-.

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2. The applicant's learned counsel took me through the copies of evidence as well as the impugned judgment. It is submitted that neither initial demand was verified nor it was proved. He would submit that unless prior demand is proved, the charged offence cannot be established. He has also pointed towards certain inconsistencies and improbabilities from the evidence. From said material it can be said that applicant has unarguable case on merits.

3. It is brought to the notice that during trial appellant was on bail. He has deposited entire fine amount. The appeal will certainly take considerable time for its final disposal. In case of success in appeal irreversible position about pre-trial detention would occur on refusal of suspension. Normally, when a fixed term of sentence is imposed, suspension shall be allowed unless there are special circumstances. In view of that execution of the substantive sentence passed in Special ACB Case 12/2016 stands suspended till final disposal of the appeal.

4. In the meantime appellant shall be released on bail on his furnishing P.R. bond of Rs.25,000/- with one surety of like amount.

JUDGE

R.S. Sahare