

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

CRIMINAL APPEAL NO.229 OF 2022

(PRAKASH JETUJI KUMARE....VS.. STATE OF MAH. THR. PSO GADCHIROLI.)

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

Court's or Judge's orders

Shri R.M.Daga, Advocate for the Appellant/Applicant.
Shri S.D.Sirpurkar, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : MAY 04, 2022.

1. Heard.
2. ADMIT.
3. Shri S.D.Sirpurkar, learned APP waives service on behalf of respondent/State.
4. Call for the record and proceedings.

CRI.APPLN.NO. 285/2022.

5. This is an application filed under Section 389 of the Code of Criminal Procedure for suspension of sentence and for grant of bail.

6. The applicant has filed appeal against conviction challenging the judgment and order dated 9th March, 2022 passed by Additional Sessions Judge, Gadchiroli in S.T. No.58 of 2019, convicting the applicant for the offences punishable under Section

376(f) of Indian Penal Code and Section 3 of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman Evil and Aghori Practices and Black Magic Act, 2013 and thereby sentencing to suffer rigorous imprisonment for ten years for the offence punishable under Section 376(f) of the Indian Penal Code and to pay fine of Rs.3,000/-, in default to suffer further simple imprisonment for three months. He was further sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.5,000/-, in default to suffer further simple imprisonment for three months.

7. The learned counsel for the applicant submits that there is delay in lodging the First Information Report and the impugned judgment and order is perverse and not based on the evidence. He submits that the applicant was on bail during the trial and never misused the liberty granted to him. He further submits that there is likelihood that the appellant would succeed in the appeal.

8. The learned A.P.P., on the other hand, opposed the present application.

9. Having considered the findings recorded by the learned trial Court while convicting the applicant, I am of the opinion that re-appreciation and reappraisal of the evidence is necessary in this case. The applicant was throughout on bail during pendency of the trial and there is no complaint about abuse of the concession by the applicant. Moreover, there is no likelihood that present appeal would come up for final hearing in near future. Accordingly, I pass the following order:

- i. Criminal application is **allowed**.
- ii. The substantive sentence imposed by the learned Additional Sessions Judge, Gadchiroli in Sessions Case No.58 of 2019 vide judgment and order dated 09/03/2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh Bonds.

JUDGE

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