

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

CRIMINAL APPEAL NO. 240/2022
IN
CRIMINAL APPLICATION (APPA) NO. 305/2022

Bhagwan Haribhau Kharate Vs State of Maha., thr. P.S.O., Police Station Channi, Tq. Patur, Dist. Akola.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.V.Amale, counsel for the Appellant/Applicant.
Shri V.A.Thakare, APP for the Respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : 21/04/2022.

1. Heard.
2. **Admit.**
3. Call for record and proceedings.
5. Shri V.A.Thakare, learned APP waives notice for respondent /State.

CRIMINAL APPLICATION (APPA) NO. 305/2022

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

2. The applicant has been convicted by the learned Special Judge, Akola, vide its judgment and order dated

24/03/2022, passed in Special (Atro.)Case No.142/2018, for the offences punishable under Sections 354, 354-B of the Indian Penal Code and Sections 3(1)(w)(i)(ii), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short “the Atrocities Act”).

The applicant is sentenced to suffer rigorous imprisonment for three years with fine of Rs. 15,000/-, in default to suffer rigorous imprisonment for six months for the offence punishable under Section 354 of the Indian Penal Code.

The applicant is further sentenced to suffer rigorous imprisonment for the period of three years with fine of Rs. 15,000/-, in default to suffer further rigorous imprisonment for six months for the offence punishable under Section 354-B of the Indian Penal Code.

The applicant is further sentenced to suffer rigorous imprisonment for three years with fine of Rs.15,000/-, in default to suffer further rigorous imprisonment for six months for the offence punishable under Sections 3(1)(w)(i)(ii), 3(2)(va) of the Atrocities Act.

3. Learned counsel for the applicant has pointed out that the applicant was on bail during the trial. He has further submits that he has very good case on merit and there is every likelihood that he would succeed in the present matter.

4. On the other hand, learned APP opposes the present application.

5. I have perused the impugned judgment and findings recorded by the learned trial Court, I am of the opinion that in this case re-appreciation and reappraisal of the evidence is necessary. Moreover, as there is no likelihood that this matter would come up for hearing in near future, the present application needs to be allowed. Hence, I pass the following order:

i] Criminal application is **allowed**.

ii] The substantive sentence imposed by the learned Special Judge, Akola in Special (Atro.) Case No.142/2018, vide judgment and order dated 24/03/2022, is suspended till disposal of the appeal;

iii] The applicant shall be released on bail on executing P.R. Bond for Rs.15,000/- with one solvent surety in the like amount.

The Criminal Application is **disposed** of, accordingly.

[JUDGE]

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