

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

Criminal Revision Application No. 130 of 2022

Vijay Dhobaji Kharabe

Versus

State of Maharashtra, through Police Station Officer, Police Station Selu,
Dist. Wardha and anr.

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

Court's or Judge's Order

Shri J.S.Chilotra, Advocate for the applicant.

Shri N.R.Patil, APP for the State/non-applicant.

CORAM : ANIL S. KILOR, J.

DATED : 17th MAY, 2022.

Issue notice to the respondents, returnable
on **8th June, 2022.**

2. Shri Patil, learned APP waives service of
notice for the respondent/State.

Criminal Application No.146 of 2022

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

4. The applicant has filed revision against conviction challenging the judgment and order dated 4th April, 2016 passed by the learned Judicial Magistrate First Class, Seloo in Summary Criminal Case No.689 of 2015, convicting the applicant for the offence punishable under Section 354 of Indian Penal Code and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.2,000/-, in default of payment of fine accused to suffer simple imprisonment for 15 days. The learned Additional Sessions Judge, Wardha upheld the said judgment of the trial Court vide order dated 19th January, 2022 in Criminal Appeal No. 49 of 2016.

5. Shri Chilotra, learned counsel for the applicant submits that he was on bail during the trial. He further submits that there is no complaint of misuse of liberty granted to the applicant. He further submits that he is having a very good case on merit and there is every likelihood that he would succeed in the present appeal.

6. On the other hand Shri Patil, learned Additional Public Prosecutor opposes the present application.

7. I have perused the findings recorded by the learned Judicial Magistrate First Class, Seloo as well as

learned Additional Sessions Judge, Wardha in the impugned judgment and order and thereupon, I am of the opinion that applicant is having arguable case and re-appreciation of the evidence is necessary in this case. There is no likelihood that this matter would come up for final hearing in near future. There is one more reason to allow this application is that appellant was on bail during the trial. Accordingly, I pass the following order:

- i. Criminal application is **allowed**.
- ii. The sentence imposed by the learned Judicial Magistrate First Class, Seloo in Summary Criminal Case No.689 of 2015 vide judgment and order dated 4th April, 2016 and confirmed by the Additional Sessions Judge, Wardha in Criminal Appeal No.49 of 2016 vide judgment and order dated 19th January, 2022, is suspended till disposal of the revision application.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]