

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

**Criminal Application [APPA] No.764 of 2021**  
**in**  
**Criminal Appeal No.570 of 2021**

*Lokesh Pralhad Shahu*

*vs.*

*State of Maharashtra, through P.S.O. Kamptee, District Nagpur.*

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

*Court's or Judge's Orders*

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*Mr. S.D. Chande h/f Mr. Raju Kadu, Advocate for the Applicant/Appellant.  
 Ms. T.H. Udeshi, A.P.P. for the Non-Applciant/Respondent.*

**CORAM : SURENDRA P. TAVADE, J.**  
**DATE : 27<sup>th</sup> JANUARY, 2022.**

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

02] This is an application for suspension of sentence and grant of bail. The applicant was convicted in Sessions Case No.316/2021. He is held guilty for the offences punishable under Section 420 read with Section 34 of the Indian Penal and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.5,000/-, in default to suffer simple imprisonment for six months.

03] The learned Counsel for the applicant has taken me through the evidence of witnesses. It appears that the applicant was tried for the offences punishable under Sections 188 188, 120-B, 381, 420 read with Section 34 of the Indian Penal Code, Section 3 read with Section 7 of the

Essential Commodities Act and Section 18(c) read with Section 27 of the Drugs and Cosmetics Act. Perusal of the judgment of the trial Court, it appears that except Section 420 of the Indian Penal Code, the applicant is acquitted for the other offences under the Indian Penal Code, Essential Commodities Act and Drugs and Cosmetics Act. It is contended that the applicant has good case on facts as well as on law. The applicant is convicted for a fixed term of period of five years. It is also contended that looking to the pendency of the matters before this Court, there is no possibility that this appeal be taken up for final hearing in near future. Therefore, it is prayed that the sentence be suspended and the applicant be released on bail.

04] It appears from the impugned judgment that Remdesivir injections were found in possession of the applicant. The trial Court expressed that they were kept for selling in black market. The offences charged against the applicant are serious in nature, but that cannot be a criteria to reject the application for suspension of sentence. The trial Court has imposed a fixed term of sentence i.e. of five years of rigorous imprisonment along with fine. Normally, where the fixed term of sentence is imposed, in absence of any special feature, the execution of sentence needs to be suspended. The appeal will not be taken up for hearing within short period of time. In case the applicant succeeds in the appeal, an irreversible position about his pre-trial detention would occur. Having regard to the facts of the present case and on going through the impugned judgment, I am inclined to suspend the sentence. Hence, I pass the following order :

**ORDER**

- i. The application is allowed.
- ii. The sentence imposed upon the applicant is hereby suspended till the decision of this appeal.
- iii. The applicant is ordered to be released on bail on his executing a P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety in the like amount before the trial Court.
- iv. The applicant is directed to attend hearing of this appeal regularly. He is also directed not to indulge in the activity of selling of drugs in connection with Corona Virus.

**JUDGE**

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