

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

**Criminal Application (APPA) No. 1055 of 2022
in
Criminal Appeal No. 817 of 2022**

**Shri Krishna Narayanrao Kathole
Versus
Vijayalaxmi General Stores through Prop. Shri Girish Prakash Kabra and
another**

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

Court's or Judge's Order

Shri P.M.Pande Advocate for the appellant.
Ms. Shamsi Haider, APP for the respondent/State.

**CORAM : ANIL S. KILOR, J.
DATED : 25th NOVEMBER, 2022.**

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

2. The applicant has filed an appeal challenging the judgment and order dated 6th January, 2018 passed by the learned Judicial Magistrate First Class, Malegaon, Dist. Washim in Summary Criminal Case No. 880 of 2014, convicting the applicant for the offence punishable under Sections 138 of the

Negotiable Instrument Acts and sentenced to suffer imprisonment for one year and directed to pay compensation of Rs.15,00,000/- (Rs. Fifteen Lakhs only) within a month, in default of payment of amount of compensation, the appellant shall suffer further simple imprisonment for four months. The learned Additional Sessions Judge, Washim upheld the judgment of the trial Court vide judgment and order dated 19th November, 2022 in Criminal Appeal No. 4 of 2018.

2. Shri Pande, learned counsel for the applicant submits that the applicant was on bail during the trial. He further submits that applicant is having a very good case and there is every likelihood that he would succeed in the present appeal.

3. On the other hand Ms. Haider, learned Additional Public Prosecutor on behalf of respondent/State opposes the present application.

4. I have perused the findings recorded by the learned trial Court and learned Sessions Judge and thereupon, I am of the opinion that appellant 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. Accordingly, I pass the following order.

ORDER

- i. Criminal application is allowed.
- ii. The sentence imposed by the learned Judicial Magistrate First Class, Malegaon in Summary Criminal Case No. 880 of 2014 vide judgment and order dated 6th January, 2018 and confirmed by the Additional Sessions Judge, Washim in Criminal Appeal No. 4 of 2018 vide judgment and order dated 19th November, 2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.11.25
18:06:21 +0530