

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

**Criminal Application No. 1056 of 2022
in
Criminal Appeal No. 143 of 2022**

Sushilkumar S/o Badriprasad Chandra

Versus

State of Maharashtra, through its Police Station Officer, Police Station
Hingna, Dist. Nagpur

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

Court's or Judge's Order

Shri L.B.Khergade, Advocate for the appellant.

Ms. Shamsi Haider, APP for the respondent/State.

CORAM : ANIL S. KILOR, J.

DATED : 23rd DECEMBER, 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 7th
December, 2020 passed by the learned Judge, Special
Court, NDPS Act, Nagpur in Special Cri (NDPS) Case
No. 22 of 2017, convicting the applicant for the offence
punishable under Section 20(b)(ii)(C) of Narcotic

Drugs and Psychotropic Substances Act and sentenced to suffer rigorous imprisonment for ten years and fine of Rs.1,00,000/- and in default to suffer simple imprisonment for two months.

3. Shri Khergade, learned counsel for the applicant submits that applicant is having a very good case and there is every likelihood that he would succeed in the present appeal.

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

5. In this case, the appellant has already undergone six years imprisonment, whereas he has been sentenced to suffer rigorous imprisonment for ten years. Considering the fact that there is no possibility that this appeal would come up for final hearing in near future, I am of the opinion that as the appellant has undergone substantive sentence and since after going through the findings recorded by the trial Court, re-appreciation of entire evidence is necessary since arguable case is made out by the appellant. Accordingly, I pass the following order.

ORDER

- i. Criminal application is allowed.
- ii. The sentence imposed by the learned Judge, Special Court, NDPS Act, Nagpur in Special Criminal (NDPS) Case No. 22 of 2017 vide judgment and order dated 7th December, 2020, is suspended till disposal of the appeal.
- iii. The applicant shall be released on bail on furnishing PR Bond of Rs.25,000/- with one solvent surety in the like amount.

Corrected as
per order
dt.6.1.2023

[ANIL S. KILOR, J.]