

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

**Criminal Application No. 1057 of 2022
in
Criminal Appeal No. of 2022**

Dipal S/o Bandu Mule

Versus

State of Maharashtra, through its Police Station Officer, Police Station
Adyai, Tah. Pauni, Dist. Bhandara

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

Court's or Judge's Order

Shri Raspal Renu, Advocate for the appellant.
Shri V.A.Thakare, APP for the respondent/State.

**CORAM : ANIL S. KILOR, J.
DATED : 1st DECEMBER, 2022.**

For the reasons stated in the application and
on finding that the reasons are satisfactory, the criminal
application is allowed. The delay of 180 days in filling
an appeal, is condoned.

Office is directed to register the appeal and
place the matter for 'Admission'.

Criminal Appeal No.834 of 2022

Heard.

Admit.

Call record and proceedings.

Shri Thakare, learned Additional Public Prosecutor waives service of notice on behalf of respondent/State.

Criminal Application (APPA) No. 1083 of 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 22nd March, 2022 passed by the learned Special Judge, Bhandara in Special Atrocity Case No. 10 of 2017, convicting the applicant for the offence punishable under Section 376(1) read with Section 511 of Indian Penal Code and sentenced to suffer Rigorous imprisonment for five years and shall pay fine of Rs.2,000/- in default to suffer simple imprisonment for two months. He is further convicted for the offence punishable under Section 452 of Indian Penal Code and sentenced to suffer Rigorous imprisonment for three years and shall pay fine of Rs.1,000/- in default to suffer simple imprisonment for one month.

3. Shri Renu, learned counsel for the applicant submits that the applicant was on bail during the trial. She further 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 Shri Thakare, learned Additional Public Prosecutor on behalf of respondent/State opposes the present application.

5. I have perused the findings recorded by the 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 Special Judge, Bhandara in Special Atrocity Case No. 10 of 2017 vide judgment and order dated 22nd March, 2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]