

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

**Criminal Application No. 1074 of 2022
in
Criminal Appeal No. of 2022**

Shyamprasad S/o Ganeshprasad Shukla and another

Versus

State of Maharashtra, through its Police Station Officer, Police Station
Arvi, Dist. Wardha

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

Court's or Judge's Order

Shri Mahesh Rai, 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.835 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. 1084 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 applicants have filed an appeal challenging the judgment and order dated 13th December, 2021 passed by the learned District Judge-2 and Special Judge (POCSO Act), Wardha in Atrocity Special Atrocity Case No. 17 of 2013, convicting the applicants for the offence punishable under Section 363 read with Section 34 of Indian Penal Code and sentenced to suffer Rigorous imprisonment for two years and shall pay fine of Rs.1,000/- in default to suffer simple imprisonment for two months each. They are further convicted for the offence punishable under Section 368 of Indian Penal Code and sentenced to suffer Rigorous imprisonment for two years and shall pay fine of Rs.1,000/- in default to suffer simple imprisonment for two months each.

3. Shri Rai, learned counsel for the applicants submits that the applicants were on bail during the trial. He further submits that applicants are having a very good case and there is every likelihood that they 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 appellants are 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 District Judge-2 and Special Judge (POCSO Act), Wardha in Atrocity Special Atrocity Case No. 17 of 2013 vide judgment and order dated 13th December, 2021, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]