

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

CRIMINAL APPLICATION (APPA) NO. 388/2022 IN
CRIMINAL APPEAL NO. 326/2022

ARVIND S/O KANJIBHAI RAJPOPAT
VS
THE STATE OF MAHARASHTRA, THR. PSO, POLICE STATION
KALAMNA, DIST. NAGPUR

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

Court's or Judge's Order

Ms Y.P. Bage, advocate for appellant.

Mr M.J. Khan, APP for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/06/2023.

1. Heard.
2. Present appeal is preferred by the appellant against the judgment and order of sentence passed in Sessions Case No. 298/2021 on 30/03/2022 vide judgment and order of the Additional Sessions Judge, Nagpur, by which the appellant is held guilty and is sentenced to suffer R.I. for five years and to pay fine of Rs. 3,000/-.
3. The learned counsel for the appellant submitted that he has to seek instructions regarding the deposit of the fine amount.

4. As per the contention of the learned counsel for the appellant that since 13/12/2020, the appellant is in jail and approximately half of the period of the sentence he is in jail. If the entire sentence is undergone by him, the appeal will become infructuous. The appeal will take its own time for final decision. In the meantime, if the sentence is executed then appeal will become infructuous. He will abide by all the contention imposed by him.

5. The said application is strongly opposed by the State on the ground that if the applicant is released on bail, he would not be available for execution of sentence if the appeal is decided against him to execute the sentence.

6. Heard both the sides. Perused the impugned judgment of the learned trial Court. After appreciating the evidence on record, the learned trial Court held the appellant guilty and sentence him to suffer R.I. for five years, approximately more than two and half years, the appellant is in jail. There is no possibility that the appeal will dispose of in near future and if the entire sentence is executed then appeal will become infructuous. The appellant is permanent resident of Kalamna, District Nagpur. It is submitted on behalf of the appellant, he will abide by all the conditions

imposed by this Court. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

- a) Criminal Application is allowed.
- b) The execution of sentence is suspended till disposal of the appeal and the appellant is released on bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety of like amount.
- c) The appellant shall furnish his cell phone number and address to the address proof along with name of two nearest relatives and their address with address proof.
- d) The appellant shall attend the trial Court on 5th of every month of the trial Court and shall record his presence before the Court.

Criminal Appeal No. 326/2022

- 1. Appeal is already admitted. Record and Proceedings is already received.
- 2. Appeal be placed before the Court after preparation of paper-book.

JUDGE