

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

CRIMINAL APPLICATION (APPA) NO. 418 OF 2023
IN
CRIMINAL APPEAL NO. 252 OF 2023

Ganesh S/o Manohar Mhashakhatri

..VS..

State of Maharashtra through PSO, P.S. Chamorshi, Dist. Gadchiroli

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.V. Kulkarni, Advocate h/f Ms. S.S. Kulkarni, Advocate for
applicant/appellant.
Mr. M.J. Khan, APP for non-applicant/respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : JUNE 21, 2023

Present application is for seeking suspension of sentence and grant of bail.

2. The appellant was prosecuted for the offence punishable under Sections 376(1), 354, 354A, 354B, 324, 511 and 450 of the Indian Penal Code. After appreciation of the evidence, the learned trial Court held the accused guilty for the offence punishable under Sections 354B of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for a period of three years and fine of Rs.10,000/- in default to suffer Simple Imprisonment for a period of three months. The appellant is also convicted for the offence punishable under Sections 354A, 324, 451 of the Indian Penal Code. Being aggrieved and dissatisfied with the judgment and

order of sentence, the present Appeal is preferred by the appellant.

3. As per the grounds raised in the Appeal, the learned trial Court has not appreciated the evidence in proper prospective and not consider the evidence in the light as there was previous dispute between the appellant and family members of the victim. The appellant has every chance of success in the present appeal hence, he prays for suspension of sentence and he release on bail. It is further submitted that appellant has already paid the fine amount.

4. Said application is strongly opposed by the State on the ground that the Appeal filed by the appellant wherein no grounds are made out and therefore, the Application deserves to be rejected.

5. Heard both the sides and perused the Appeal Memo as well as impugned judgment. Considering the grounds raised in the Appeal, which satisfactory shows that there is a arguable case of the appellant however, the appeal will take its own time for its final decision, in the meanwhile if the sentence is executed, then the appeal will become infructuous. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order :

- (i) The Criminal Application No.418/2023 is allowed.
- (ii) The execution of the sentence is suspended till final disposal of the appeal.

- (iii) The appellant – Ganesh S/o Manohar Mhashakhatri is released on bail on executing P.R. bond of Rs.25,000/- with one solvent surety in the like amount.
 - (iv) The appellant shall furnish his cellphone number and address with the address proof. Additionally the appellant shall submit names of his two nearest relatives and their address with address proof.
6. The application is disposed of.

CRIMINAL APPEAL NO. 252 OF 2023

The appeal be placed before the Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)

Kirtak