

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

CRIMINAL APPLICATION (APPA) NO. 633/2023
IN
CRIMINAL APPEAL STAMP NO. 4644/2023

PANDURANG @ PANDU S/O. MEGHRAJ JADHAV AND ANOTHER
VS
STATE OF MAH. THR. PSO, PS, HINGNA, NAGPUR.

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

Court's or Judge's Order

Mr A.K. Bhangde, counsel for the applicants/appellants.
Mr I.J.Damle, APP for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/06/2023.

1. Present application is for suspension of sentence and releasing the appellants on bail.
2. The appellants/accused were prosecuted for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code. After recording the evidence, the learned trial Court held the appellants guilty of the offence punishable under Section 307 read with Section 34 of the Indian Penal Code, and sentenced to suffer R.I. for four years each and to pay a fine of Rs. 10,000/- each, and in default of payment of fine directed to suffer S.I. of six months.
3. Being aggrieved and dissatisfied with the judgment and order of sentence, the present appeal is

preferred by the appellant, on the ground that the learned trial Court has not considered the evidence in proper perspective. The appellants have every chance of success in the present appeal. The learned trial Court has also not considered the infirmities which is appearing in the evidence adduced by the prosecution, and erroneously convicted the appellants. The appeal will take its own time for its final decision, in the meanwhile, if the sentence is executed, the appeal will become infructuous. It is further submitted that appellants were on bail during the trial, and they have not misused their liberty. The fine amount is not paid by both the accused.

4. Issue notice to the non-applicants.

5. Learned APP waives service of notice on behalf of non-applicant/State.

6. Learned APP strongly objected the application, on the ground that the learned trial Court has properly appreciated the evidence and convicted the appellants. If the appellants are released on bail and the appeal is decided against them, it will be difficult to secure their presence to execute the sentence.

7. Heard learned counsel Mr A.K. Bhangde for the applicants/appellants and Mr I.J. Damle, learned APP for the non-applicant/State. Perused the judgment of

the learned trial Court. Admittedly, the appeal will take its own time for final decision. The appellants have challenged the judgment of the learned trial Court on various grounds like there are infirmities in the evidence of the prosecution. Therefore, the opportunity is to be granted to the appellants. In the meanwhile, if the sentence is executed, the appeal will become infructuous. Considering the fact that appellants were on bail during the trial and they have not misused their liberty, the criminal application deserves to be allowed by imposing certain conditions. Accordingly, I pass following order:

- a) Criminal Application is allowed.
- b) The appellants are released on bail on executing P.R. Bond of Rs. 15,000/- each with one solvent surety of the like amount.
- c) The execution of sentences be suspended till final decision of the appeal.
- d) The appellants shall attend the trial Court on 15th day of every month and the learned trial Court shall record their presence.
- e) The appellants shall deposit the fine amount within one month.

Criminal Appeal No. 410/2023

1. Heard.
2. Admit.
3. Call for Record and Proceedings.
4. Appeal be placed before the Court after preparation of paper-book

JUDGE