

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

CRIMINAL APPLICATION (APPA) NO.712 OF 2023

IN
CRIMINAL APPEAL NO.450 OF 2023

Avinash Subhash Atram

Vs.

State of Maharashtra, through its Police Station Officer, Police Station, Parwa,
Ghatanji District Yavatmal

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

Court's or Judge's orders

Mr. N. B. Bargat, Counsel for applicant.
Mr. M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06/07/2023

1. The present application is preferred for suspension of sentence under Section 389 of the Code of Criminal Procedure.

2. The applicant was prosecuted for the offence punishable under Section 307 and 201 of the Indian Penal Code and 4/25 of the Arms Act.

3. After appreciating the evidence, the learned trial Court held the applicant guilty of the offence punishable under Section 307 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for three years and fine amount of Rs.20,000/-. The applicant is further held guilty for the offence punishable

under Section 201 of the Indian Penal Code and sentenced to suffer six months rigorous imprisonment and fine amount of Rs.5,000/-. The applicant has already deposited the fine amount.

4. As per the contention of the applicant, he has preferred this appeal and challenged the Judgment and Order of sentence passed by the Additional Sessions Judge, Yavatmal. The learned Additional Sessions Judge has not considered the evidence on record and material omissions and contradictions on the same set of evidence other two accused are acquitted. Thus, the applicant has every chance of success in the present appeal, but the appeal will take its own time for final decision. In the meanwhile, if the sentence is executed the appeal will become infructuous.

5. The said application is strongly opposed by the State on the ground that the learned trial Court has rightly appreciated the evidence and convicted the applicant. No ground is made out for suspension of sentence.

6. Having heard the learned Counsel for the applicant and the learned APP. Perused the impugned Judgment. Admittedly, the appeal will take its own time for the decision. The applicant was on bail and there is no complaint that he has misused his liberty while on

bail. Considering the aspect that there is no possibility of disposal of the appeal in the near future and the applicant has not misused his liberty during the trial. The application deserves to be allowed. Accordingly, I proceed to pass following order.

- (i) The application is allowed.
- (ii) The execution of the sentence is suspended till disposal of the appeal.
- (iii) The applicant be released on bail on executing P.R. bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

CRIMINAL APPEAL NO.450 OF 2023

- 1. Heard.
- 2. **Admit.**
- 3. The learned APP waives notice for respondent/State.
- 4. Call for record and proceeding.
- 5. The appeal be placed before the Court after preparation of the private paper book.

(URMILA JOSHI-PHALKE, J.)