

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

CRIMINAL APPLICATION (APPA) NO.726 OF 2023

IN
CRIMINAL APPEAL NO.460 OF 2023

Nandkishor Sahdevrao Bhatkar and another

Vs.

The State of Maharashtra, through Police Station Officer, Police Station, Rajapeth,
Amravati

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

Court's or Judge's orders

Mr. P. S. Tembhare, Counsel h/f Mr. A. J. Gilda, Counsel for applicants.
Mr. I. J. Damle, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/07/2023

1. This is an application under Section 389 of the Code of Criminal Procedure for suspension of sentence and for releasing the applicants on bail.

2. The applicants were prosecuted for the offence punishable under Sections 313 and 498-A read with Section 34 of the Indian Penal Code and under Section 3 read with Section 4 of Dowry Prohibition Act.

3. The learned trial Court after appreciating the evidence held the applicants guilty and sentenced to suffer rigorous imprisonment for the period of three years each and fine of Rs.5000/- each for the offence punishable under Section 313 read with Section 34 of the

Indian Penal Code. The applicants are also sentenced to suffer rigorous imprisonment for the period of three years each and fine of Rs.5000/- each for the offence punishable under Section 498-A read with Section 34 of the Indian Penal Code. The applicants have already deposited the fine amount.

4. The order of sentence and the judgment is challenged by the applicants before this Court on various grounds. As per the contention of the applicants, the learned trial Court has not appreciated that there was gross delay in lodging the FIR. The applicants have every chance of success in the present appeal, however, appeal will take its own time for final decision. In the meanwhile, if the sentence is executed, the appeal will become infructuous.

5. The learned APP waives notice for the State and raised the objection on the ground that learned trial Court has appreciated the evidence properly and no ground to suspend the sentence.

6. Having heard both sides and on perusal of the impugned judgment. The applicants have made out the arguable case. The appeal will take its own time for final decision. In the meanwhile, if the sentence is executed, the appeal will become infructuous.

Considering the same, the application deserves to be allowed. Accordingly, I proceed to pass following order.

(i) The execution of the sentence is suspended till disposal of the appeal.

(ii) The applicants are released on bail on executing PR. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

(iii) The applicants shall furnish their cellphone numbers and address with the address proof before the trial Court.

The application is disposed of.

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1. **Admit.**
2. Call for record and proceeding.
3. Appeal be placed before the Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)

Sarkate