

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

CRIMINAL APPLICATION (APPA) NO. 736/2023

IN

CRIMINAL APPEAL NO. 465/2023

YUVRAJ S/O SADARAM UPARADE AND 2 OTHERS

VS

THE STATE OF MAHARASHTRA, THR. PSO, POLICE STATION
SALEKASA, TAH. SALEKASA, DIST. GONDIA

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

Court's or Judge's Order

Mr. D.R. Galande, counsel for applicants/appellants.

Mr. M.J.Khan, APP for non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 12/07/2023.

1. Heard.
2. The present application is filed under Section 389(1) of the Code of Criminal Procedure, 1973 for suspension of sentence and for releasing the present appellants on bail.
3. The appellant Nos. 1 and 2 were prosecuted for the offence punishable under Sections 452, 294, 323, 506 read with Section 34 of the Indian Penal Code and Section 3(1)(x)(xii) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.
4. After trial, the learned trial Court held the present appellants guilty of the offence punishable

under Sections 323 and 452 read with Section 34 of the Indian Penal Code and sentenced to suffer R.I. of one year of the offence punishable under Section 452 and R.I. of three months of the offence punishable under Section 323 of the Indian Penal Code.

5. The appellants have submitted that the fine amount is already paid. The said judgment and order of sentence is challenged by the appellants on various grounds. As per the contention of the appellants, the learned trial Court has not appreciated the evidence and wrongly convicted the present appellants. 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 and prays for suspension of sentence.

6. The said application is strongly opposed by the State on the ground that the learned trial Court has rightly considered the evidence and convicted the appellants hence, the criminal application deserves to be rejected.

7. Having heard both the sides and on perusal of the impugned judgment, the appellants have made out the arguable case. However, the appeal will take its own time for its final decision. In the meanwhile, if the sentence is executed, the purpose of preferring the

appeal will become frustrated. In view of that, criminal application deserves to be allowed. Accordingly, I proceed to pass the following order:

- a) Criminal Application is allowed.
- b) The execution of the sentence is suspended till final disposal of the appeal.
- c) The appellants are released on bail on executing P.R. Bond of Rs. 15,000/- each with one solvent surety of like amount.
- d) The appellants shall furnish their cell phone numbers and address with address proof before the learned Trial Court.

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1. Heard.
2. **Admit.**
3. Mr M.J.Khan, learned APP waives service of notice on behalf of respondent/State.
4. Appeal be placed before the Court after preparation of the paper-book.

JUDGE