

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION (APPA) NO.857 OF 2023 IN
CRIMINAL APPEAL NO.529 OF 2023
Tarachand s/o Kehu Nagpure Vs. State of Maharashtra

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

Court's or Judge's orders.

Shri V.S. Mishra and Shri K.R. Jhamb, Advocates for appellant.
Shri A.M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : AUGUST 07, 2023.

By this application, the appellant is seeking suspension of sentence.

2. The appellant was prosecuted for the offence punishable under Sections 353, 332, 323, 504 and 506 of the Indian Penal Code, 1860. After appreciating the evidence, the learned trial Court held appellant guilty for the offences punishable under Sections 332 and 353 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for one year of the offence under Section 332 and rigorous imprisonment for one year of the offence under Section 353 and to pay fine of ₹500/- each and in default he shall suffer further 15 days simple imprisonment. The judgment and order of sentence is challenged by the appellant on various grounds. As per grounds raised, the learned trial Court has not considered the evidence on record in proper perspective. The appeal will take its own time for its final decision, in the meanwhile, if the sentence is executed then appeal will become *infructuous*.

3. Learned APP by waiving notice for respondent/State strongly opposed and submitted that the learned trial Court has rightly convicted the appellant after considering the evidence on record. There are no grounds to suspend the sentence.

4. Having heard both sides and after going through the impugned judgment and order, the appellant has made out arguable points. The appeal will take its own time for 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:

ORDER

- i. The application is allowed.
- ii. The execution of sentence awarded by the Adhoc Additional Sessions Judge-1, Gondia in Sessions Case No.144/2019 dated 13.07.2023 is hereby suspended pending appeal.
- iii. The appellant shall remain present at the time of final hearing of appeal.

With this, the application is disposed of.

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Heard.

2. **Admit.**
3. Call for record and proceedings.
4. Learned APP waives notice of hearing for respondent/State.
5. Appeal be placed before the Court after preparation of paper book.

Wagh

JUDGE

Signature Not Verified

Digitally Signed By: SURESH RAOSAHEB
WAGH
Personal Assistant to Hon'ble
Judge, High Court of Bombay, Nagpur
Bench, Nagpur.
Signing Date: 08.08.2023