



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL APPLICATION (APPR) NO. 321/2023
IN
CRIMINAL REVISION APPLICATION NO. 211/2023

Rajendra s/o Shamraoji Bhagat

Applicant

versus

The State of Maharashtra

Th; PS Imamwada, Nagpur.

..Respondent/s

.....
Mr. U.P.Dable, Advocate for the applicant

Mrs.Shamsi Haider, APP for Respondent-State
.....

CORAM: ANIL L. PANSARE, J.

DATED : 29th September, 2023.

PC:

Heard both sides at length.

2. Challenge is to the judgment and order dated 08.09.2023 passed by the learned Additional Sessions Judge, Nagpur in Criminal Appeal No. 277/2018 whereby the order dated 14.09.2018 passed by the learned Judicial Magistrate, First Class, Corporation Court No.1, Nagpur in Summary Criminal Case No.11452/2013 has been confirmed. The applicant (original accused) has been convicted for the offence punishable under section 279 of the Indian Penal Code (IPC) and sentenced to suffer two months RI and a fine of Rs. 1,000/- in default of payment of fine, he shall suffer RI of 15 days and for offence u/s 337 of IPC, the applicant was sentenced to suffer two months RI and fine of Rs. 500/- in default of payment of fine, he shall suffer RI of 07 days.

3. Mr U.P.Dable, the learned counsel for the applicant submits

that the applicant is in jail from 08.09.2023. He further submits and rightly so that, considering the nature of offence, the Court may explore the possibility of releasing the applicant in terms of the provisions of the Probation of Offenders Act, 1958 (in short, 'Offenders Act'). The learned counsel further submits that there are no criminal antecedents against the applicant. This argument is to point out that the applicant is not tainted with bad character.

4. The incident in brief is that on 27.03.2013 at about 2.15 p.m, the complainant as well as his eleven friends were proceeding by five motorcycles to their friend's house in order to celebrate 'holi' festival. At Imambada Police Station, Nagpur, one white colour Maruti Wagon R car driven by the applicant, that too under the influence of liquor, came from their back side in high speed and gave dash to their motorcycles. As a result, the motorcyclists along with riders fell down on the road and sustained injuries. The incident happened due to rash and negligent driving of the Car by the accused/applicant.

5. The learned APP submits that the applicant cannot claim the benefit of the Offenders Act as a matter of right and, therefore, sentence may not be suspended.

6. True it is that the benefit of the Offenders Act cannot be claimed as of right but considering the nature of the incident and the character of the applicant, let there be a report of concerned Probation Officer in terms of Section 4 of the Offenders Act.

7. Since the possibility of extending the benefit under the

Offenders Act is being considered, let the sentence be suspended. Hence the following order :

ORDER:

- (i) The execution of the sentenced imposed upon the applicant by the judgment and order dated 14.09.2018 passed by the learned Judicial Magistrate, First Class, Corporation Court No.1, Nagpur in SCC No. 11452/2013 and confirmed by the judgment and order dated 08.09.2023 passed by the learned Additional Sessions Judge, Nagpur in Criminal Appeal No. 277/2018 is hereby suspended.
- (ii) The applicant shall be released on bail on furnishing PR bond in the sum of Rs. 25,000/- with one solvent surety in like amount before the lower Court.
- (iii) The concerned Probation Officer, District Nagpur shall file a report in terms of Section 4 of the Probation of Offenders Act, 1958 on or before 31.10.2023.
- (iv) The applicant shall remain present before this Court at the time of final hearing of the Revision.
- (v) The parties to act on the authenticated copy of this order.

[ANIL L. PANSARE, J.]

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