



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

CRIMINAL APPLICATION (APPA) NO. 1226/2023 IN
CRIMINAL APEAL NO. 760/2023

Tarabai W/O Shriram Kumbhare And Other
 Vs
 State Of Mah. Thr. PSO PS Salekasa Tq.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. A.M.Chandekar, counsel for applicants.
 Mr. Hulke, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 08/12/2023.

1. By this application, the applicants are seeking suspension of the sentence passed by the Sessions Judge, Gondia in Sessions Case No. 68/2018 whereby the applicants are convicted for the offence punishable under Section 363 and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs. 3,000/- each, and in default of payment, further rigorous imprisonment for three months each.

2. The learned counsel for the applicants, Mr. Chandekar submitted that the learned trial Court had not considered the victim herself joined the company of the present applicants, and has not made any complaint when she was along with the present applicants. At the relevant time, she was more than 16

years of age, only allegations against the present applicants is that, she was induced by the present appellants to perform her marriage with one person.

3. The learned counsel for the applicants further submitted that the trial Court has acquitted the present applicants from the offence punishable under Section 366-A. From the judgment, he pointed out that learned trial Court has not considered the evidence in proper perspective, and convicted the present applicants. The applicants have every chance of success in the present appeal, however, the appeal will take its own time for its final decision.

4. Considering the submission and the objection raised by the learned APP, and on perusal of the impugned judgment, it would be in the interest of justice to suspend the execution of the sentence, otherwise the purpose of the preferring the appeal would be futile. In view of the above, criminal application deserves to be allowed. Accordingly, I pass the following order:

- a] The application is **allowed**.
- b] The execution of the sentence is hereby suspended till disposal of the appeal.

- c] The applicants be released on bail on executing PR bond in the sum of Rs.20,000/- each with one solvent surety in the like amount.
 - d] The applicants shall furnish their cellphone numbers and address along with address proof before the trial Court.
7. The application stands disposed of.

CRIMINAL APPEAL NO. 760/2023

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

[URMILA JOSHI-PHALKE, J]