



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

CRIMINAL APPLICATION (APPA) NO.1256 OF 2023
IN
CRIMINAL APPEAL NO.778 OF 2023

Love Narsingh Reddy and another

Vs.

State of Maharashtra, Through Police Station Officer, Ramnagar Police Station,
Chandrapur, District Chandrapur

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

Court's or Judge's orders

Ms. Naina Dhoke, Advocate h/f Mr. R. P. Joshi, Advocate for appellants.
Ms. Trupti Udeshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 18/12/2023

1. By this appeal, the appellants have challenged the judgment and order of sentence passed by the learned Additional Sessions Judge, Chandrapur, by which the accused Nos.1 and 3 who are sentenced to undergo rigorous imprisonment for a period for three years and to pay fine of Rs.1000/- each in default, to undergo simple imprisonment for 15 days for the offence punishable under Section 326 read with Section 34 of the Indian Penal Code.

2. Learned Counsel Ms. Naina Dhoke holding for Mr. R. P. Joshi, for the appellants submitted that the learned trial Court has already suspended the sentence. The learned trial Court had not considered the material which will show the innocence of the present appellants.

The offence under Section 326 of the Indian Penal Code is not at all attracted. Thus, the appellants have arguable points and has every chance of success in the present appeal, but the appeal will take its own time for final decision and in the meantime, if the sentence is executed the appeal will become infructuous.

3. Learned APP waives notice for the State and strongly opposed the application on the ground that if the sentence is suspended and the appellants released on bail, they will not be available for execution of the sentence. In view of that, application deserves to be rejected.

4. Having heard the learned Counsel for the appellants. Perused the impugned judgment. Learned Counsel for the appellants pointed out the arguable points. The punishment is of three years. The learned trial Court has already suspended the sentence. The appellants are on bail during the trial and have not misused the liberty. Considering the fact that, the appeal will take its own time for its final decision and if in the meantime the sentence is executed, the appeal will become infructuous. In view of that, the criminal application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

(i) The Criminal Application is allowed.

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

(iii) The appellant **No.(1) Love Narsingh Reddy** and appellant **No.(2) Govind Raghunath Prasad** be released on bail on executing PR bond in the sum of Rs.20,000/- each with one solvent surety in the like amount.

(iv) The appellants shall furnish their cell phone numbers and addresses with address proof.

CRIMINAL APPEAL NO.778 OF 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.)