



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

CRIMINAL APPLICATION NO.283 OF 2024

IN

CRIMINAL APPEAL NO.149 OF 2024

(Mausam Haribhau Moharkar and anr. Vs. State of Maharashtra)

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

Court's or Judge's Order

Mr. V.S. Sambre, Advocate for the applicant.
Mr. S.C. Joshi, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 11, 2024.

By this application, the appellants are seeking suspension of sentence and releasing him on bail under Section 389 of the Code of Criminal Procedure.

2. The appellants were prosecuted of the offence punishable under Sections 353, 379, 294, 147, 183, 186 and 506 read with Section 149 of the Indian Penal Code. On the basis of the evidence the learned trial Court held both the appellants guilty. After considering the evidence appellant No.1 is convicted and sentenced to suffer rigorous imprisonment for two years and fine of Rs.2000/- in default simple imprisonment for two months. He is also convicted of the offence punishable under Section 379 and sentenced to suffer rigorous imprisonment for two years and fine of Rs.5000/- in default simple imprisonment for two months whereas appellant No.2 is convicted of the offence punishable under Sections 353, 379 and 506 of

the IPC and sentenced to suffer two years rigorous imprisonment and fine of Rs.2000/- in default two months simple imprisonment as well as of the offence punishable under Section 379 rigorous imprisonment for two years and fine of Rs.5000/- and in default simple imprisonment for 2 months and of the offence punishable under Section 506 rigorous imprisonment for six months.

3. Learned Counsel for the appellants submitted that the learned trial Court has not appreciated the evidence in proper perspective, the appellants have every chance of success in the present appeal, the conviction and the period of sentence is for a limited period. In view of that, the execution of the sentence be suspended. If sentence is not suspended, the appeal will become infructuous.

4. Learned Additional Public Prosecutor strongly opposed the application and submitted that the appeal is devoid of merits and liable to be dismissed.

5. I have heard learned Counsel for the parties and perused the impugned judgement from which learned Counsel for the appellants pointed out that he has every chance of success in the present appeal as well as the punishment for a limited period. In the meantime, if sentence is executed the appeal will become infructuous. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order :

- (i) The application is allowed.
 - (ii) The execution of the sentence is hereby suspended till final disposal of the appeal.
 - (iii) The appellants be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) each with one surety each, in the like amount.
 - (iv) The appellants shall furnish their Cell-phone number and address along with address proof before the trial Court.
6. The application stands disposed of.

CRIMINAL APPEAL NO.149 OF 2024

Heard.

- 2. **ADMIT.**
- 3. Learned APP waives notice for the State.
- 4. Call for R. & P.
- 5. Place the appeal before the Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)