



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

CRIMINAL APPLICATION (APPA) NO. 473 OF 2024
IN
CRIMINAL APPEAL NO. 269 /2024.

Hemraj Harinarayan Sharma V/s 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. R.B. Dhore, counsel for the applicant/appellant.
Mrs. H.N.Prabhu, APP for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/06/2024.

1. Heard.
2. By preferring this application, the applicant / appellant is seeking suspension of sentence and releasing him on bail.
3. Learned counsel for the applicant submitted that applicant was prosecuted of the offence punishable under Sections 353, 332, 294 of the Indian Penal Code, 1860 (for short 'IPC'). After trial, the learned trial court has held the present applicant is guilty of the offence punishable under Section 353 of the IPC and to suffer rigorous imprisonment of six months and fine of Rs. 5000/-, in default of payment of fine, simple imprisonment of one month. He is convicted for the offence punishable under Section 332 of the IPC for which he is sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs. 5000/-, in default of payment of fine, he

shall suffer simple imprisonment of one month. He further convicted for the offence punishable under Section 294 of the IPC and rigorous imprisonment for three months and fine of Rs. 2,000/-, in default, he shall suffer simple imprisonment for ten days.

4. Learned counsel for the applicant submitted that as far as the quantum of punishment is concerned, learned trial Court has not appreciated the evidence in proper perspective, and he also pointed out from the impugned judgment that, there are many arguable points raised in the present appeal. Moreover, he submitted that the punishment imposed is for a limited period, and the appeal would take its own time for final decision. In the meanwhile, if the sentence is executed, the appeal become infructuous. In view of that, he prayed for execution of sentence be suspended.

5. Learned APP strongly opposed the said application on the ground that appeal is devoid of merits and therefore, the application deserves to be rejected.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the impugned judgment. From which, it reveals that the applicant has many arguable points in the present appeal. Moreover, punishment imposed is of a limited period, if the sentence is executed, then purpose of preferring the appeal would become infructuous. In view of that, application deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application (APPA) No. 473/2024 is allowed.
- (ii) The execution of the sentence in Sessions Case No. 24/2020 is hereby suspended till disposal of the appeal.
- (iii) The applicant be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

CRIMINAL APPEAL NO.269 OF 2024

- 1. Heard.
- 2. **ADMIT.**
- 3. Call for R. & P.
- 4. Learned Additional Public Prosecutor waives service of notice on behalf of respondent/State.
- 5. Place the appeal before the Court after preparation of the paper book.

[URMILA JOSHI-PHALKE, J.]