



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

CRIMINAL APPLICATION (APPA) NO. 452 OF 2024 IN
CRIMINAL APPEAL NO. 253 OF 2024

Jaisingh s/o Motilal Sengayya and another V/s State of Maharashtra.

WITH

CRIMINAL APPLICATION (APPA) NO. 453 OF 2024 IN
CRIMINAL APPEAL NO. 254 OF 2024

Baliram @ Balram s/o Shankar Basewar 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. M.I. Dhatriak, counsel for the applicants (in APPA No.452/2024)
Mr. U.R.Phasate, APP for the respondent/State.(in APPA No.452/2024)
Mr. R.B. Gaikwad, counsel for the applicant (In APPA No.453/2024)
Mrs. Swati Kolhe, APP for the respondent/State. (In APPA No.453/2024)

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29/04/2024.

1. Heard.
2. By preferring both these applications, the applicants /appellants have challenged the judgment and order of conviction passed in Session Case No. 832/2021 by which, the appellants are convicted of the offence punishable under Section 379, read with Section 75 of the Indian Penal Code, Section 447 read with Section 34 of the Indian Penal Code and Section 26(1)(d)(f) of the Indian Penal Code, and Section 42 (2) of the Indian Forest Act, 1927 and Section 21(1) of the Maharashtra (Urban Area) Tree Protection and Preservation of Trees Act.

3. The appellants namely Baliram @ Balram s/o Shankar Basewar, Jaysing s/o Motilal Sengayya and Omprakash @ Sachin s/o Tejram Gujwar are convicted of the offence punishable under Sections 379, 447 of the Indian Penal Code and 26(1) (d) and (f) of the Indian Forest Act along with Section 42(2) of the Indian Forest Act and for the offence 21/1 of Maharashtra (Urban Area) Tree Protection and Preservation of Trees Act.

4. Learned counsel for the appellants submitted that the appellants have many arguable points in the present appeals and pointed out from the impugned judgment that learned trial Court has not consider the material aspects and the evidence on record. The appellants have every chance of success in the present appeals, but the appeals would have take its own time for its final disposal. In the meantime, if the sentence is executed, the entire appeals would become infructuous. In view of that, prays for suspension of the sentence and releasing the appellants on bail.

5. Learned APP strongly opposed the said applications on the ground that appeals are devoid of merits and therefore, the applications deserves to be rejected.

6. Having heard learned counsel for the applicants and learned APP for the State, perused the impugned judgment. Learned counsels for the appellants have pointed out from the judgment that they have arguable points in the present appeals and every chance of success. Moroever, punishment is imposed for a limited period. Admittedly, the appeals would

take its own time for its final disposal and in the meantime, if the sentence is executed, the appeals would become infructuous. In view of that, the execution of sentence requires to be suspended. Accordingly, I proceed to pass the following order:

ORDER

- (i) The applications are allowed.
- (ii) The execution of the sentence passed in Sessions Case No. 832/2021 is hereby suspended till disposal of the appeal.
- (iii) The appellant namely (1) Jaisingh s/o Motilal Sengayya (2) Omprakash @ Sachin s/o Tejram Gujwar and (3) Baliram @ Balram s/o Shankar Basewar are released on bail on executing P.R. Bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

8. The criminal application (APPA) Nos. 452/2024 and (APPA) No. 453/2024 are **disposed of**.

CRIMINAL APPEAL NOS. 253/2024 AND 254/2024

- 1. Heard.
- 2. **ADMIT.**
- 3. Call for R. & P.

4. Learned Additional Public Prosecutor waives service of notice on behalf of respondent/State in both the appeals.
5. Place the appeals before the Court on receipt of R. & P. and preparation of the paper book.

[URMILA JOSHI-PHALKE, J.]