



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

CRIMINAL APPLICATION NO.466 OF 2024

IN

CRIMINAL APPEAL NO.264 OF 2024

(Irfan Pathan s/o Obidulla Kha Pathan Vs. The 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. U.P. Dable, Advocate for the appellant.
Ms S. Haider, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MAY 6, 2024.

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

2. The appellant was prosecuted of the offence punishable under Sections 75, 379, 452, 457, 411, 413 read with Section 34 of the Indian Penal Code and under Section 26(1), 41(1), 41(2)(b) and 42 of the Indian Forest Act, 1927 read with Section 21(1) of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975. The appellant is convicted of the offence punishable under Section 379 read with Section 75 of IPC, 447 read with Section 34 of IPC and under the provisions of the Indian Forest Act, 1927 and maximum punishment provided is 3 years imprisonment and fine. In default of payment of fine the punishment is also imposed. Learned Counsel for the appellant submitted that maximum

punishment imposed is 3 years and the appeal will take its own time for its final decision. In the meantime, if sentence is executed, the appeal will become infructuous. In view of that, the execution of sentence be suspended and the appellant be released on bail.

3. Learned Additional Public Prosecutor strongly opposed the application on the ground that the appeal is devoid of merits and the application deserves to be rejected.

4. I have heard learned Counsel for both the parties and perused the impugned judgment from which learned Counsel for the appellant has pointed out that he has arguable points in the present appeal. Admittedly, the maximum punishment for the said offences imposed is 3 years i.e. a limited period punishment. The appeal will take its own time for its final decision. In the meantime, if sentence is executed, the appeal would 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 vide order dated 03/04/2024 passed by the Additional Sessions Judge-9, Nagpur in Sessions Case No.832/2021 is hereby suspended till final disposal of the appeal.

(iii) The appellant be released on bail on executing P.R. Bond in the sum of Rs.15,000/- (Rs. Fifteen thousand) each with one surety each, in the like amount.

(iv) The appellant shall furnish their Cell-phone number and address along with address proof before the trial Court.

5. The application stands disposed of.

CRIMINAL APPEAL NO.264 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.)