



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

CRIMINAL APPEAL NO.277 OF 2024

[Harischandra S/o Ramraoji Bamnote **..Vs..** State of Maharashtra]

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

Court's or Judge's order

Mr R. R. Vyas, Advocate for Appellant.

CORAM : M. W. CHANDWANI, J.

DATE : 8th MAY, 2024.

. Heard.

2. **Admit.**

3. Call for record and proceedings.

4. Ms H. Dhande, learned APP, waives notice on behalf of respondent/State.

5. List this matter after receipt of record and proceedings.

CRIMINAL APPLICATION (APPA) NO.495 OF 2024.

6. Heard Mr Vyas, learned counsel for applicant as well as Ms Dhande, learned APP, for non-applicant/State.

7. By this application, the applicant seeks suspension of substantive sentence passed by the learned Additional Sessions Judge, Nagpur, in Special Case No.17 of 2019. By the impugned judgment and order, the learned Additional Sessions Judge, Nagpur, convicted the applicant alongwith other co-accused for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988. The applicant is sentenced to suffer rigorous imprisonment for four years and directed to pay fine amount of Rs.50,000/-.

8. It is contended on behalf of the applicant that the applicant is a senior citizen. The husband of sole daughter of the applicant is suffering from cancer and the applicant is looking after the entire affairs of her family. The conviction is for a fixed term of four years. Earlier on three occasions, the trap was failed. Thereafter, the complainant was consistently following the applicant and has been implicated in false crime. During trial, the applicant was on bail. The applicant has good case on merit.

9. On the other hand, the learned APP opposed the bail application on the ground that the prosecution has proved the demand as well as acceptance of bribe by the applicant. There is sufficient material which justifies the conviction recorded by the learned Additional Sessions Judge and therefore, she sought rejection of bail.

10. Considering the fact that the applicant is a senior citizen and he has been sentenced for a fixed term of four years, the appeal may not be heard in near future. In case of acquittal, the position will be irreversible. The applicant did not misuse the liberty of bail, during trial. In this peculiar circumstance, a case is made out for suspension of substantive sentence. Hence, I proceed to pass the following order :

ORDER

- i) The criminal application is **allowed**.
- ii) Pending the appeal, the substantive sentence passed by the learned Additional Sessions Judge,

Nagpur, in Special Case No.17 of 2019, *vide* judgment and order dated 04.05.2024, shall remain suspended.

iii) The applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount.

iv) The applicant to pay the fine amount, if not paid.

v) The applicant shall appear before this Court, at the time of final hearing of criminal appeal.

11. The criminal application is disposed of accordingly.

(JUDGE)