



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

CRIMINAL APPLICATION NO.525 OF 2024

AND

CRIMINAL APPLICATION NO.526 OF 2024

IN

CRIMINAL APPEAL NO.293 OF 2024

(Hitesh Shivdasbhai Patel 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. R.M. Daga, Advocate for the appellant.

Mr. H. Futane, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- MAY 21, 2024.

By the Criminal Application No.525/2024, the appellant is seeking suspension of sentence and releasing him on bail.

2. By the Criminal Application No.526/2024, the appellant is also seeking directions to the trial Court as regards the depositing of the fine amount.

3. Learned Counsel for the appellant submitted that the appellant was charged of the offence punishable under Section 135 of the Electricity Act, 2003. As per the allegation, the appellant has committed the theft of electricity amounting of Rs.6,66,370/-. Learned trial Court has held him guilty and sentenced to suffer R.I. for one year and to pay fine of Rs.13,32,740/-. He submitted that the appellant has already deposited the amount of

Rs.6,66,370/-. In addition to that he has already deposited the theft amount also. Thereafter also the trial Court has directed him to deposit the entire fine amount till 22/05/2024.

4. Learned Counsel for the appellant submitted that the appeal would take its own time for its final decision. In the meantime, if sentence is executed and the fine amount is not deposited, the appellant would be taken into custody. In view of that, the order to the extent of depositing the remaining fine amount be stayed. He also placed reliance on the decision of the Hon'ble Apex Court in the case of ***Satyendra Kumar Mehra @ Satendera Kumar Vs. The State Of Jharkhand [2018 (15) SCC 139]*** and invited my attention towards para 36 wherein it is held that the appellate Court could have suspended the sentence and fine both or could have directed for deposit of fine or part of fine. He submitted that as per the observation of the Hon'ble Apex Court the appellant has already deposited part fine amount and entire theft amount is deposited. In view of that, the execution of the sentence be suspended and he be released on bail as well as the order directing to deposit the remaining fine amount be stayed.

5. Learned Additional Public Prosecutor strongly opposed the application on the ground that learned trial Court has rightly considered the aspect of electricity theft

and the fine amount is directed to be paid. In view of that, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties and perused the decision relied upon by the learned Counsel for the appellant. The record shows that the theft amount is already deposited by the appellant, in addition to that 50% fine amount is already paid. In view of that the execution of the sentence deserves to be suspended as well as the order of the trial Court directing to deposit the remaining fine amount till 22/05/2024 also requires to be stayed. In view of that, both the applications deserves to be allowed. Accordingly, I proceed to pass following order :

(i) Both the applications are allowed.

(ii) The execution of the sentence vide order dated 02/05/2024 passed by the Additional Sessions Judge, Nagpur in Special (MSEB) Case No.6/2019 is hereby suspended till final disposal of the appeal.

(iii) The direction of the trial Court directing to deposit remaining 50% of the fine amount is hereby stayed till disposal of the appeal.

(iv) The appellant be released on bail on executing P.R. Bond in the sum of Rs.15,000/-

(Rs. Fifteen thousand) with one surety, in the like amount.

7. Both the applications stand disposed of.

CRIMINAL APPEAL NO.293 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.)