



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

CRIMINAL APPLICATION NO.630 OF 2024

IN

CRIMINAL APPEAL NO.355 OF 2024

(Swapnil @ Bhamya s/o Keshavrao Bhamodre 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. S.B. Gandhe, Advocate for the appellant.
Mr. N.B. Jawade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 10, 2024.

By this application, the appellant is seeking suspension of sentence and releasing him on bail.

2. The appellant was prosecuted of the offence punishable under Section 307 read with Section 34 of the Indian Penal Code. After recording the evidence, the trial Court held him guilty of the offence punishable under Section 326 of the IPC and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.1000/-, in default of payment of fine to undergo rigorous imprisonment for two months.

3. Learned Counsel for the appellant submitted that there are various arguable points in the present appeal however, it would take its own time for its final disposal. Moreover, the punishment imposed is of a limited period, if sentence is executed then the appeal will become infructuous. In view of that, he prays for suspension of sentence and releasing the appellant on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the suspension period is already over, and therefore, the appellant has to surrender before the Sessions Judge, Amravati therefore, this application is not maintainable.

5. I have heard learned Counsel for both the parties and perused the order passed by the Sessions Judge, Amravati which reads that the appellant/accused No.1 Swapnil @ Bhamya Keshavrao Bhamodre shall be released on bail till 06/07/2024 on his executing P.R. Bond of Rs.15,000/- and on his furnishing solvent surety in the like amount, to enable the applicant to obtain order from this Court i.e. Hon'ble Bombay High Court under sub-section (1) of Section 389 of the Code of Criminal Procedure.

6. The appellant has preferred the appeal prior to 06/07/2024 somehow it was not listed, and therefore, that period is over.

7. On perusal of the impugned judgment as pointed out by the learned Counsel that he has many arguable points in the present appeal as well as the appeal would take its own time for its final decision and the punishment imposed is of a limited period. 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 07/05/2024 passed by the Sessions Judge, Amravati in Special Case No.19/2016 is hereby suspended till final disposal of the appeal.

(iii) The appellant i.e. Swapnil @ Bhamya s/o Keshavrao Bhamodre be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) with one surety, in the like amount.

8. The application stands disposed of.

CRIMINAL APPEAL NO.355 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.)