



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

CRIMINAL APPLICATION (APPA) NO.128 OF 2024
IN
CRIMINAL APPEAL STAMP NO.7632 OF 2023

Akash Kumar s/o Ramshankar Choudhary

Vs.

Amit Rajesh Chheniya s/o Rajesh Chenniya

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

Court's or Judge's orders

Mr. S. M. Mate, Counsel for the applicant/appellant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 21/08/2024

1. By preferring this appeal, the appellant has challenged the order passed by the Joint Civil Judge Junior Division, Nagpur by which the complaint of the complainant is dismissed under Section 256 of the Code of Criminal Procedure.

2. Heard learned Counsel for the appellant who submitted that the complaint is dismissed for technical grounds. The appellant has a strong case, however, the learned trial Court has not given any opportunity. The presence of the appellant was not at all required on the day of dismissal as the matter was pending for awaiting the report of the warrant. Learned trial Court has not considered the same.

3. Thus, considering the reason mentioned in the order as well as the submission made by the learned Counsel for the appellant and on perusal of the record it reveals that the case was pending for the awaiting report of the warrant. Admittedly, the presence of the complainant was not required on that day. He has also placed on record the roznama which also shows that it was kept for the awaiting warrant. Thus, presence of the complainant was not at all required. The learned trial Court has not considered the same. The appellant has made out a case for grant of bail, in view of that leave is granted.

4. Appeal be registered.

5. Criminal Application is disposed of.

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On registration of the appeal, notice be issued to the respondent, returnable after **four weeks**.

(URMILA JOSHI-PHALKE, J.)