



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

CRIMINAL APPLICATION (APPA) NO.1142 OF 2024
IN
CRIMINAL APPEAL NO.676 OF 2024

Subhash s/o Vithalrao Kuthe

Vs.

State of Maharashtra, through Police Station Officer, Ashti District Wardha

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

Court's or Judge's orders

Mr. M. V. Rai, Counsel for the applicant.
Ms. H. N. Prabhu, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/11/2024

1. By this appeal, the appellant has challenged the judgment and order of conviction passed by the learned Additional Sessions Judge, Wardha dated 13.11.2024 by which the present appellant is convicted for the offence punishable under Sections 354(A)(1)(i)(iv), 294 and 506 of the Indian Penal Code and under Sections 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Section 3(1)(r)(s) of the said Act.

2. The maximum punishment imposed on the present appellant is of a three years and fine of Rs.1000/- for the offence punishable under Section 354(A)(1)(i)(iv) of the Indian Penal Code. He is further convicted for the offence punishable under

Section 294 of the Indian Penal Code r/w Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and sentenced to suffer rigorous imprisonment for three months and fine of Rs.500/-. He is further convicted for the offence punishable under Section 506 r/w Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and sentenced to suffer rigorous imprisonment for two years and fine of Rs.500/-. The sentence of three years and fine of Rs.1000/- for the offence punishable under Section 3(1)(r) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. The sentence of three years and fine of Rs.1000/- for the offence punishable under Section 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Thus, the maximum punishable imposed on the present appellant is of a three years.

3. Learned Counsel for the appellant Mr. Rai submitted that the appeal would take its own time for its final disposal. He also pointed out that he has many arguable points in the present appeal from the impugned judgment and submitted that if the sentence is executed the preferring of the appeal would become infructuous. In view of that the execution of the sentence be suspended.

4. Learned APP strongly opposed the said application and submitted that the appeal itself is

devoid of merits and the application deserves to be rejected.

5. After hearing both the sides and on perusal of the impugned judgment from which learned Counsel for the appellant has pointed out that he has many arguable points in the present appeal. Moreover, the punishment imposed is of a limited period. The appeal would take its own time for its final disposal. In the meantime, if the 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:

ORDER

(i) The application is allowed.

(ii) The operation and execution of the sentence passed in Special (Atrocity Act) Case No.32/2022 is hereby suspended till disposal of appeal.

(ii) The appellant shall be released on bail on executing PR Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

6. The application is disposed of.

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(i) **Admit.**

(ii) Learned APP waives service of notice for the respondent/State.

(4)

18.appa.1142.2024

- (iii) Call for record and proceedings.
- (iv) Appeal be listed before this Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)

Sarkate