



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

CRIMINAL APPLICATION NO.1277 OF 2023

IN

CRIMINAL APPEAL (ST.) NO.9769 OF 2023

(Rajkumar s/o Chotmalji Kochar Vs. Vinodkumar s/o Bachharajji Rawka)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. K.R. Jain, Advocate for the appellant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- SEPTEMBER 19, 2024.

By preferring this application, the applicant is seeking leave to file an appeal against acquittal which is passed by the Judicial Magistrate First Class, Court No.3, Amravati in Summary Criminal Case No.4312/2019.

2. Though the respondent is served, however none appears.

3. Heard learned Counsel for the appellant. From the impugned judgment he has pointed out that he has many arguable points in the present appeal. He submitted that the Trial Court has observed that the complainant was not having sufficient means to lend the money of Rs.1,60,000/-.

4. He submitted that the cheque issued by the accused and his signature on it, is not disputed. The evidence of the complainant also shows that out of the friendship he has given the amount as a hand loan. The Trial Court without any evidence, inferred that the

complainant was not having sufficient means. Prima facie, the observation of the Trial Court appears to be wrong and illegal. He submitted that he has many legal points in his favour also as the presumption is attracted against the accused as the complainant has proved the foundational facts. In view of that, leave be granted.

5. Heard learned Counsel for the appellant. Perused the impugned judgment from which he has already pointed out that he has many arguable points in the present appeal. In view of that the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The appeal be registered.

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Call for R. & P.

2. After receipt of the R. & P, the appeal be listed for the final disposal at the admission stage.

(URMILA JOSHI-PHALKE, J.)