



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

CRIMINAL APPLICATION (APPA) NO.102 OF 2024
IN
CRIMINAL APPEAL NO.31 OF 2024

(Sudhir @ Bittu s/o Jagdish Vishwakarma and others Vs. State of Maharashtra thr.
PSO PS MIDC, Nagpur)

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

Court's or Judge's orders.

Mr. C. S. Dharmadhikari, Advocate for Applicants.
Ms. R. V. Sharma, APP for Non-Applicant/State.

CORAM: G. A. SANAP, J.
DATE: 13th AUGUST, 2024.

Heard Mr. C. S. Dharmadhikari, learned Advocate for applicants and Ms. R. V. Sharma, learned Additional Public Prosecutor for the non-applicant/State.

2. This is an application for suspension of substantive sentence and grant of bail.

3. The applicant nos.1 to 3 have been held guilty of the offences punishable under Sections 304-B, 306 read with Section 34 of the Indian Penal Code and Section 3 of the Dowry Prohibition Act, 1961. The substantive sentence awarded for the offence under Section 306 of IPC is imprisonment for five years. The substantive sentence awarded for the offence under Section 304-B is imprisonment for seven years and the substantive sentence awarded for the offence under Section 3 of the Dowry Prohibition Act, is imprisonment for six years. The learned Judge has also sentenced them to pay fine, as mentioned in the impugned order.

4. It is the case of the applicants that the evidence on record is not sufficient to prove the charge under Section 304-B read with Section 34 of IPC. As far as role of applicant nos.2 and 3 is concerned, in their submission, there is no evidence to attribute any role to them in the commission of the crime. According to the applicant nos.2 and 3, they have been held guilty with the applicant no.1. Learned Advocate for the applicants took me through the evidence of the prosecution witnesses and the reasons recorded by the learned Judge.

5. The learned APP specifically submitted that the charges have been proved against all the accused. Learned APP submitted that applicant nos.2 and 3 have been held guilty on the basis of the concrete and cogent evidence against them. Learned APP submitted that they have not deposited the fine amount.

6. I have gone through the record and proceedings, I am satisfied that as far as the applicant no.1 is concerned no case has been made out for suspension of the sentence. As far as applicant nos.2 and 3 are concerned, in my view, their case for suspension of sentence can be considered. However, they would be required to pay the fine amount. PW-1 is the father of the deceased. He has not stated about the demand of dowry or any payment of dowry by him. The reference of the payment of dowry has come in the evidence of the mother of the deceased, who is PW-3 and the maternal uncle of the deceased, who is PW-4. In my view, this evidence is required to be re-appreciated while

deciding the appeal on merits. At this stage, on going through the record, I am satisfied that as far as applicant nos.2 and 3 are concerned, their substantive sentence can be suspended. Accordingly, I proceed to pass the following order:

O R D E R

i] The application to the extent of applicant no.1 is rejected.

ii] The application to the extent of applicant nos.2 and 3 is allowed. The substantive sentence awarded to the applicant nos.2 and 3 shall remain suspended during the pendency of this appeal.

iii] Applicant no.2 – Jagdish s/o Torku Vishwakarma and applicant no.3 – Devendra @ Chhotu s/o Jagdish Vishwakarma be released on bail on their furnishing PR bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand only) each with one surety in the like amount.

iv] Applicant nos.2 and 3 shall deposit the fine amount within one month from the date of their release from jail. If they fail to pay the fine amount, they shall surrender to serve the sentence.

5. The application stands disposed of.

(G. A. SANAP, J.)