



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

CRIMINAL APPLICATION (APPA) NO. 248 OF 2024

with

CRIMINAL APPEAL NO. 132 OF 2024

DIGAMBAR SHRIRAM CHAVAN

VERSUS

STATE OF MAH., THRU. P.S.O., P.S., RAIPUR, TQ. and DIST. BULDHANA

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

Court's or Judge's Order

Mr. R. J. Shinde, Advocate for the appellant/applicant.
Mr. H. S. Hulke, A. P. P. for respondent /State

CORAM : G. A. SANAP, J.

DATE : JUNE 11, 2024.

1. Heard Mr. R. J. Shinde, learned advocate for the applicant and Mr. H. S. Hulke, learned Additional Public Prosecutor for the respondent/State. Perused the record.
2. This is an application for suspension of substantive sentence.
3. The applicant/accused has been convicted by the learned Additional Sessions Judge, Buldhana vide judgment and order dated 23.01.2024 in Sessions Case No. 56/2020 for the offence punishable under Section 307 and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.10,000/- and in default to suffer RI for six months. He is also convicted for the offence punishable under Section 341 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.100/- and in default to suffer RI for seven days.

4. It is stated that the accused has deposited the entire fine amount. Learned advocate for the applicant would submit that the appeal may take its own time for final adjudication. Learned advocate took me through the grounds of challenge to the impugned judgment and order, more particularly the grounds set out in the memo of appeal. Learned advocate would submit that the appellant may be released on bail by suspending the substantive sentence.

5. Learned APP has opposed the prayer made by the applicant. It is submitted that the offences proved against the applicant/accused are very serious. It is submitted that the evidence on record is concrete and cogent.

6. I have gone through the record and proceedings. During pendency of the trial, the applicant/accused was on bail. There is no allegation of breach of bail conditions by the accused. An appeal against the judgment of conviction and sentence can be filed as of a right. However, suspension of sentence cannot be claimed as of a right. It depends on the facts and circumstances of each case and more particularly, the quantum of sentence awarded by the Court.

7. In this case, in my view, considering the quantum of sentence and the fact that there was no grievance of breach of bail conditions by the accused during pendency of the trial, it would be just and proper to allow the application. Hence, I pass the following order.

- i] The criminal application is allowed.

ii] The substantive sentence awarded as above by the learned Additional Sessions Judge, Buldhana vide the judgment and order dated 23.01.2024 in Sessions Case No.56/2020 for the offences punishable under sections 307 and 341 of the Indian Penal Code, shall remain suspended during pendency of this appeal.

iii] Applicant/accused – Digambar Shriram Chavan be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five thousand only) with one surety in the like amount.

iv] Bail be furnished before the trial Court.

v] The applicant/accused shall remain present before the Court at the time of final hearing of this appeal.

vi] The application stands disposed of in the aforesaid terms.

(G. A. SANAP, J.)