



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

CRIMINAL APPLICATION (APPA) NO.1210 OF 2024
IN
CRIMINAL APPEAL NO.467 OF 2024

Benkatkumar Raman @ Raja s/o Narayan Singh
Vs.

State of Maharashtra, through Police Station Officer, Police Station
Hingna, District Nagpur

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

Court's or Judge's orders

Ms. S. P. Chavhan, Counsel for the applicant/appellant.
Ms. Ritu Sharma, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/01/2025

1. This is an application for suspension of sentence and grant of bail filed under under Section 430 of the Code of Criminal Procedure.

2. The appellant has filed an appeal challenging the Judgment and order dated 7th December 2020 passed by the learned Judge Special Court, NDPS Act, Nagpur in Special Criminal (NDPS) Case No.22/2017 convicting the appellant for the offence punishable under Sections 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act (for short 'the NDPS Act') and sentenced to suffer rigorous imprisonment for ten years and fine of Rs.1,00,000 and in default to suffer further imprisonment for two months.

3. Heard learned Counsel for the appellant who submits that the appellant has already undergone eight years of punishment and he is convicted for the offence punishable under Section 20(b)(ii)(C) of the NDPS Act. She submitted that the appellant has every chance of success in the present appeal as the mandatory provisions regarding obtaining the samples and forwarding to C.A. is not followed by the investigating agency. Thus, there is no compliance of Section 52 or 52A, in view of that the execution of the sentence be suspended. She further submitted that the co-accused who is already released on bail by suspending his sentence. Thus, the ground of parity is also available to the present appellant.

4. Learned APP strongly opposed the said application on the ground that the appeal can be disposed of finally. The involvement of the present appellant is in the offence under the provisions of the NDPS Act, in view of that the application deserves to be rejected.

5. In the present case, the appellant has already undergone eight years imprisonment whereas he has been sentenced to suffer rigorous imprisonment for ten years. Moreover, learned Counsel for the appellant from the impugned Judgment pointed out that she has many arguable points in the present appeal as far as the mandatory

provisions are concerned. She further submitted that the appeal would not be decided in the near future, in view of that the preferring the appeal by the present appellant would be infructuous. In view of that the application deserves to be allowed. Considering the said submission, I am of the opinion that as the appellant has already undergone substantive sentence and also shown the arguable points from the impugned judgment. Reappreciation of the entire evidence is not necessary at this stage, considering the same, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) The execution of the sentence be suspended passed in Special Criminal (NDPS) Case No.22/2017, till disposal of the appeal.

(ii) The appellant shall be released on bail on executing PR Bond of Rs.1,00,000/- with one or more sureties of the like amount.

(iii) The appellant shall attend the Special Court (NDPS), Nagpur on 10th of every month and the Special Court shall record his presence till disposal of the appeal.

6. The application is disposed of.

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1. Heard.
2. **Admit.**
3. Call for record and proceedings.

(4)

48.appa.1210.2024

4. Appeal be listed for final disposal after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)

Sarkate