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

CRIMINAL APPLICATION NO.724 OF 2024

IN

CRIMINAL APPEAL NO.406 OF 2024

(Jawaharlal s/o Shrilal Dubey and ors. Vs. The State of Maharashtra)

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

Court's or Judge's Order

Mr. A.S. Mardikar, Sr. Advocate for the appellants.
Mr. A.J. Gohokar, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 5, 2024.

By this application, the appellants are seeking suspension of sentence and releasing him on bail.

2. The appellants have challenged the judgment and order of sentence passed by the Special Judge, Amravati in Special (ACB) Case No.11/2005 by which the present appellants are convicted of the offence punishable under Sections 7, 13(1)(e) r/w 13(2) of the Prevention of Corruption Act, 1988 by which the present appellants are convicted of the offence and sentenced to suffer rigorous imprisonment for 2 years and to pay fine of Rs.50,000/- each.

3. Learned Senior Counsel for the appellants submitted that the fine amount is already paid. He has also shown the endorsement which is on the certified copy of the judgment. He further submitted that the appeal would take its own time for its final decision. He pointed

out from the impugned judgement that he has many arguable points in the present appeal. The sanction accorded by the Sanctioning authority and its validity is also in question, the evidence as to the demand and acceptance is also not consistent. Moreover, the punishment imposed is of a limited period, if sentence is executed then the appeal will become infructuous. In view of that, he prays for suspension of sentence and releasing the appellant on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the appeal itself is devoid of merits and liable to be dismissed.

5. I have heard learned Counsel for both the parties and perused the impugned judgement from which the learned Counsel for the appellants has pointed out that he has many arguable points in the present appeal and there are every chance of success. However, the appeal would take its own time for its final decision, moreover the punishment imposed is for a limited period. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order :

(i) The application is allowed.

(ii) The execution of the sentence vide order dated 06/07/2024 passed by the Special Judge under P.C. Act and Additional

Sessions Judge, Amravati in Special Case No.11/2005 is hereby suspended till final disposal of the appeal.

(iii) The appellants – 1) Jawaharlal s/o Shrilal Dubey, 2) Sau. Mangalabai w/o Jawaharlal Dubey, 3) Vishal s/o Jawaharlal Dubey and 4) Vishwas s/o Jawaharlal Dubey be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) each with one surety each, in the like amount.

6. The application stands disposed of.

CRIMINAL APPLICATION NO.725 OF 2024

By this application, the appellants are seeking stay to the operative part of the judgment dated 06/07/2024 of the learned Special Judge, Amravati in Special Case No.11/2005.

2. Issue notice to the respondent, returnable after two weeks.

3. Learned APP waives notice for the State and seeks time to file reply.

CRIMINAL APPEAL NO.406 OF 2024

Heard.

2. **ADMIT.**

3. Learned APP waives notice for the State.
4. Call for R. & P.
5. Place the appeal before the Court after two weeks.

(URMILA JOSHI-PHALKE, J.)

**Divya*