

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 925 OF 2015
IN
CRIMINAL APPEAL NO. 181 OF 2015

Parmeshwar Balbhim Sarwade **Applicant.**

Versus

State of Maharashtra **Respondent.**

Mr. A.N. Sabnis h/f. Mr. P.V. Barde, Advocate for applicant.

Mr. N.B. Patil, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 3rd March, 2015.

ORDER :

1. The application is filed for suspension of substantive sentence. The appeal is filed against the judgment and order of Sessions Case No. 15/2013 which was pending in the Court of learned Additional Sessions Judge, Omerga. The appellant was chargesheeted for the offence punishable under section 302 of I.P.C., but he is convicted for the offence punishable under section 326 of I.P.C. Sentence of R.I. of four years is given. Fine of Rs. 10,000/- is imposed. This Court has gone through the material which is discussed in the judgment. It appears that stick was used as a weapon by the applicant and three blows were given, mostly on the head of deceased. The head injury caused death. The deceased on that night returned to home and

disclosed the incident to his wife and so, the evidence of dying declaration is given. The deceased was shifted to hospital first on 1.10.2012 when the incident had taken place on 29.9.2012. He died in the hospital on 7.10.2012 due to head injury. The incident took place in the night time.

2. In view of the reasoning given and the fact that the applicant has been behind bars for more than two years and four months, this Court holds that substantive sentence needs to be suspended. Fine amount is not deposited. The appellant needs to deposit fine amount.

3. In the result, the application is allowed and substantive sentence is suspended, subject to depositing of entire fine amount in the trial Court. If the fine amount is deposited, the applicant is to be released on bail on his furnishing PR and SB of Rs. 30,000/- (Rupees thirty thousand) with one solvent surety of like amount.

[T.V. NALAWADE, J.]

ssc/