

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 345/2017 IN CRIMINAL APPEAL NO.220/2017
 (MANISH MADANLAL JOSHI **VERSUS** STATE OF MAHARASHTRA, THR. P.S.O. RAMDASPETH, AKOLA)

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

Court's or Judge's orders

Shri M. Badar, counsel for the applicant.
 Shri P.S. Tembhare, A.P.P. for the respondent.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : AUGUST 08, 2017.

By this criminal application, the applicant-appellant seeks the suspension of sentence imposed upon him by the judgment and order dated 31.03.2017 in Sessions Trial No.45 of 2016 by the Sessions Judge, Akola for the offence punishable under Section 302 of the Indian Penal Code.

After hearing the parties for some time and after perusing the Record & Proceedings as also the judgment of the learned Sessions Judge, Akola, it *prima-facie* appears that the conviction of the appellant is based mainly on the dog tracking evidence which would be a comparatively weak piece of evidence and because the applicant was last seen together with the deceased. It *prima-facie* appears that the trial Court did not give any weightage to the fact that the accused had taken the deceased to the hospital. It is also *prima-facie* noticed that in the judgment that is challenged in the criminal appeal, the learned Sessions Judge has erroneously held that since the defence has not stated that any other person had been to the spot after the accused was last seen with the deceased it would be an additional link in the chain of circumstances to arrive at a conclusion that the applicant was

guilty of the crime. On a reading of the judgment and on a perusal of the evidence, it *prima-facie* appears that a lesser offence could be made out against the applicant even as it is the case of the prosecution that the applicant-accused had killed the deceased by means of a stone as also the applicant had carried the deceased to the hospital. The appeal is admitted for hearing and it would take some time for rendering a decision in the appeal. The applicant is behind the bars from 06.11.2015. In the circumstances of the case, the accused is entitled to be released on bail by suspending the sentence imposed by the learned Sessions Judge.

Hence, in the circumstances of the case, we suspend the sentence imposed on the applicant by the learned Sessions Judge, Akola and grant bail to the applicant on the condition that the applicant furnishes the bail-bond in the sum of Rs.25,000/- and a surety in the like amount. The criminal application is allowed in the aforesaid terms and disposed of.

Hamdast granted.

JUDGE

JUDGE

APTE