

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1336 OF 2020
IN
CRIMINAL APPEAL NO. 1335 OF 2019**

Punjaram Ragho Mahale	..Applicant
V/s.	
The State of Maharashtra	..Respondent

Ms. Akshata Desai i/b. Mr. Nitin Sejpal, for the Applicant.
Smt. M. M. Deshmukh, APP for the Respondent / State.

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**CORAM : NITIN JAMDAR AND
C. V. BHADANG, JJ.**

DATE : 3 August 2021

P.C.

. This is an Application for suspension of sentence and release of the Applicant on bail. By the impugned judgment and order dated 5 July 2019, learned Additional Sessions Judge at Nashik in Sessions Case No.96/2016 has convicted the Applicant for the offence punishable under Section 302 of IPC and he has been sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- and in default, to suffer Simple Imprisonment (S.I.) for six months.

2. We have heard the learned counsel for the Applicant and the learned APP. Perused record.

3. As per prosecution case, there was a quarrel between deceased Yuvraj Bhika Mahale and Ramchandra Mahale in which Applicant intervened, whereupon the deceased is alleged to have abused the Applicant. Annoyed by this, the Applicant brought a wooden log and assaulted the deceased on his head. On account of the assault, the deceased sustained injuries to which he succumbed.

4. The prosecution evidence consists of statement by P.W.2 – Ramchandra Mahale on the point of deceased being last seen together with the Applicant and the confessional statement by the Applicant offering to produce the weapon and the blood stained clothes. Admittedly, there is no eye witness account of the incident available on record. A perusal of the evidence of P.W.2 *prima facie* shows that the deceased was hurling abuses ‘to the drunkards’ when the Applicant arrived at the spot. As per the evidence of Narmadabai (P.W.1) widow of the deceased, the deceased was found lying at Sabarkandi in an injured condition.

5. Considering the over all circumstances and *prima facie* having regard to the fact that the prosecution evidence consists of the evidence of last seen together which is in a public place and

the discovery which is challenged by the Applicant and which cannot be said to be substantive piece of evidence, we find that the sentence can be suspended. Hence, the following order.

ORDER

1. The substantive sentence of imprisonment awarded to the Applicant is hereby suspended pending disposal of the Appeal, subject to the Applicant furnishing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount and upon payment of the fine, if not already paid.
2. The Interim Application is disposed of in the aforesaid terms.

(C. V. BHADANG, J.)

(NITIN JAMDAR, J.)