

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

CRIMINAL APPLICATION (APPA) NO. 221/2021 IN
CRIMINAL APPEAL NO. 147/2021

Atul Suresh Sotare

VERSUS

State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A. D. Tote, Advocate for appellant/applicant

Shri H. D. Dubey, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATE : 28.07. 2021.

Hearing was conducted through Video
Conferencing.

2. This is an application for suspension of sentence passed against appellant – Atul Suresh Sotare in Special Case No. 169/2016. Learned Trial Court held appellant guilty along with two other for the offence punishable under Sections 304-II and 324 read with Section 34 of the Indian Penal Code. The Trial Court while imposing sentence, has awarded punishment to undergo rigorous imprisonment of ten years to co-accused Sachin whilst the applicant Atul Suresh Sotare sentenced to suffer rigorous imprisonment of five years with total fine amount of Rs. 30,000/-.

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3. Para 43 of the judgment bears the reason for discriminating in imposing sentence with reason that co-accused Shankar has assaulted deceased by means of weapon whilst appellant – Atul assaulted by stick. The learned counsel for the appellant briefly took me through the evidence of eye-witness and pointed out certain inconsistencies. The appellant was on bail during trial. Yesterday i.e. on 27.07.2021, he has deposited the entire fine amount.

4. The maximum sentence imposed is term of imprisonment of five years. The appeal will take considerable time for its disposal. No exceptional circumstances are brought on record for revoking use of discretion. In view that, execution of substantive sentence passed in Special Case No. 169/2016 is suspended till final disposal of appeal. In the meantime, appellant is released on his furnishing P. R. Bond of Rs. 25,000/- with one or two sureties.

5. Application stands allowed and disposed of.

JUDGE

Gohane.