

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

CRIMINAL APPLICATION [APPA] NO. 379/2021
IN CRIMINAL APPEAL NO.267/2021.

Shrikrushna Manikrao Shende.

-VERSUS-

State of Maharashtra, P.S. Chandur Railway, District Amravati.

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

Court's or Judge's Orders

Shri S.B. Gandhe, Advocate for the Applicant.
Shri I.J. Damle, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : JULY 28, 2021.

Hearing was conducted through Video
Conferencing.

2. This is an application seeking suspension of execution of sentence passed in Sessions Trial No.127/2015 by the Additional Sessions Judge-2, Amravati on 02.07.2021. The appellant/applicant was held guilty for commission of offence punishable under Section 307 of the Indian Penal Code, and was sentenced to suffer rigorous imprisonment for a period of 4 years and

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was ordered to pay fine of Rs.1000/-.

3. The State has resisted the application by filing reply-affidavit. It is contended that the offence is of serious nature, and there is direct evidence in the form of applicant and P.W.6, who stated about assault by knife on the chest.

4. With the assistance of both sides I have gone through the record and proceedings. It is submitted that though the alleged incident took place in a public place near bus stand in the evening, besides a nearer relative, no other independent witness has been examined. It is pointed out that there is variance in the evidence of the informant and eye witness P.W.6 – Sunanda Pawar. It is brought to the notice of the Court that the panch witness on disclosure panchnama has not supported the prosecution case. In view of this, the submission that the appellant/applicant has chances of success, requires consideration.

5. Generally if the accused is sentenced with a fixed term of imprisonment and there is no

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hope of appeal coming up for hearing in near future, the execution of sentence can be suspended. During trial the accused was on bail and he has deposited the fine amount. Having regard to the defined quantum of sentence of 4 years, and there is no certainty of appeal coming up for final hearing, the execution of sentence can be suspended. In view of that, the execution of substantive sentence passed in Sessions Trial No.127/2015 by the Additional Sessions Judge-2, Amravati on 02.07.2021 stands suspended till the final disposal of the Criminal Appeal.

In the meantime, the appellant/applicant – Shrikrushna Manikrao Shende be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

6. Criminal Application is accordingly allowed and disposed of.

Rgd.

JUDGE