

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

**CRIMINAL APPLICATION [APPA] NO.407/2021**  
**IN CRIMINAL APPEAL NO. 299/2021.**

Pramod lalaji Bhoyar.

**-VERSUS-**

State of Maharashtra.

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

Court's or Judge's Orders

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Ms. A.D. Kolhe, Advocate for the Appellant/applicant.  
Shri A.M. Deshpande, A.P.P. for the Respondent.

**CORAM : VINAY JOSHI, J.**

**DATE : SEPTEMBER 08, 2021.**

Heard.

2. This is an application seeking suspension of execution of sentence. The applicant/accused is held guilty for the offence punishable under Sections 306 and 506-II of the Indian Penal Code. The applicant was sentenced to suffer rigorous imprisonment for 7 years along with total fine of Rs.75,000/-. The appellant was on bail during trial.

3. The learned Counsel for the applicant would submit that the trial Court erred in holding that the accused has abetted the deceased to commit suicide. She took me

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through a transcript of telephonic conversation in between the deceased and the accused, to impress that it no where suggest sufficient instigation to commit suicide. The learned Counsel for the applicant has attracted my attention to A.D. report lodged by the father of the deceased on the date of incident, wherein suspicion was not expressed against the applicant.

4. It reveals that the deceased had entered into an agreement to sale with the accused to sell his agricultural land. Later on the deceased was asking the accused for cancellation of agreement on return of earnest amount. It can be inferred from the recorded conversation that the accused was demanding excess amount for cancellation of the agreement. Deceased also said that if accused would not cancel the agreement, he may commit suicide.

5. Evidence of the informant i.e. wife of the deceased speaks that one day prior to the occurrence, the deceased talked with her. During said talk, the deceased told her that the accused had threatened him that if the land is not sold, he would kill him. Essentially the trial Court by considering said material, held that there was sufficient abetement to the

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deceased to commit suicide. Moreover, some witnesses are examined to show that the accused is in the habit of money lending to the villagers and extracting more amount.

6. The case is totally based on circumstantial evidence. Whether the act of accused of insisting for excess amount for cancellation of the agreement amounts to abetment, is a matter requires consideration. A fixed term of imprisonment has been awarded. No special circumstance exists for denying suspension of sentence. The appeal will take its own time for disposal. The appellant/applicant has arguable case. Having regard to these facts, the applicant/appellant has made out a case for suspension of sentence, hence, the application is allowed and following order is passed.

- (i) Criminal Application is allowed and disposed of.
- (ii) The execution and implementation of the substantive sentence passed by Adhoc District Judge-1 and Assistant Sessions Judge, Nagpur in Sessions Trial No.253/2018 on 20.07.2021, is suspended till the final disposal of this appeal, on the condition that the applicant/accused shall

deposit the entire fine amount before the trial Court.

(iii) In the meanwhile, the applicant/accused be released on bail on his furnishing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount.

(iv) The trial Court shall ensure about deposit of the entire amount before issuance of release order.

Rgd.

**JUDGE**