

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

940 CRIMINAL APPLICATION NO.500 OF 2022
IN APEAL/109/2022

PRALHAD ABAJI BHAWAR
VERSUS
THE STATE OF MAHARASHTRA

...

Mr. Joydeep Chatterji, Advocate for the applicant

Mr. B.V. Virdhe, APP for the respondent

Mrs. Pratibha Bharad, Advocate for assist to APP

...

CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.

DATE : 02nd AUGUST, 2022

PER COURT :

1 Present application has been filed for suspension of sentence. The applicant is the original accused No.1. He has been convicted in Sessions Case No.27/2016 by learned Additional Sessions Judge, Hingoli on 29.11.2021 thus -

“2 The accused No.1) Pralhad Abaji Bhanwar, 2) Atmaram Pralhad Bhanwar, 3) Vitthal Dajiba Ghysar, 4) Balaji Ramprasad Bhanwar, 5) Ramprasad Abaji Bhanwar, 6) Madhav Pralhad Bhanwar,

7) Namdeo Dajiba Ghyar, 9) Nandabai w/o Atmaram Bhanwar, 10) Parvatibai w/o Madhavrao Bhanwar are hereby convicted for the offence under Section 302 read with Section 149 of the Indian Penal Code, vide Section 235(2) of the Code of Criminal Procedure. They are sentenced to rigorous life imprisonment and fine of Rs.2,000/- each, in default of payment of fine the accused shall suffer rigorous imprisonment for one month.

3 The accused Nos.1 to 7, 9 and 10 are hereby convicted for the offence under Section 307 read with Section 149 of the Indian Penal Code vide Section 235(2) of the Code of Criminal Procedure. They are sentenced for rigorous imprisonment for ten years and fine of Rs.2,000/- each, in default of payment of fine the accused shall suffer rigorous imprisonment for one month.

4 The accused Nos.1 to 7, 9 and 10 are hereby convicted for the offence under Section 148 of the Indian Penal Code vide Section 235(2) of the Code of Criminal Procedure. They are sentenced for rigorous imprisonment for one year. No separate sentence is awarded under Section 147 of the Indian Penal Code.

5 The accused Nos.1 to 7, 9 and 10 are hereby convicted for the offence under Section 447 read with Section 149 of the Indian Penal Code vide Section 235(2) of the Code of Criminal Procedure. They are sentenced for rigorous imprisonment for three months.

6 All the sentences to run concurrently.”

2 Heard learned Advocate Mr. Joydeep Chatterji for the applicant and learned APP Mr. B.V. Virdhe for the respondent.

3 It appears that the prosecution has examined about 18 witnesses to bring home the guilt of the accused. The First Information Report was lodged by one Ayodhya Uddhav Bhanwar about homicidal death of her father-in-law Ambadas and husband Uddhav on 22.01.2016 in the field. The testimony of PW 14 Dr. Santosh Premlal Pardeshi would show that he had conducted the autopsy on both the dead bodies. He had noted many injuries on the external examination of the bodies as well as corresponding internal injuries. On the basis of his testimony, it can be prima facie said that the deaths were homicidal in nature.

4 The prosecution has examined PW 1 Ayodhya Bhanwar – the informant, eye witness; PW 2 Dwarka Bhanwar, eye witness and PW 3 Sanjay Bhanwar, who is also an eye witness. As regards the present applicant is concerned, it is stated that he had used sword, axe and had assaulted Ambadas. The prosecution has also examined the panch witnesses and the Investigating Officer to prove the recovery, discovery of weapons and other articles. Under such circumstance, there appears to be prima facie evidence against the present applicant and, therefore, this cannot be a fit case for suspension of sentence. The learned Advocate appearing for the applicant has submitted that the applicant is aged 70 and submits that he is partially paralysed and he has also suffered heart attack in jail. However, taking into

consideration the evidence against him, when at present his health can be taken care of, case is not made out to suspend the sentence. Application stands rejected.

(Rajesh S. Patil, J)

(Smt. Vibha Kankanwadi, J.)

agd