

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.3896 OF 2019 IN
CRIMINAL APPEAL NO.1180 OF 2019**

Chingya Alias Chetan Suresh Alande ... **APPLICANT**

VERSUS

The State of Maharashtra ... **RESPONDENT**

.....
Shri V.R. Dhorde, Advocate for applicant
Shri S.P. Sonpawale, A.P.P. for respondent – State
.....

**CORAM : R. G. AVACHAT, AND
 R. M. JOSHI, JJ.**

DATE: 8th December, 2022

ORDER :

Heard. This is an application for suspension of execution of substantive sentence of life imprisonment imposed against the applicant.

2. The applicant along with 5 others, was prosecuted for offences punishable under Sections 302, 307 read with 120-B/149 of the Indian Penal Code. All of them, except original accused No.4 came to be convicted and sentenced to suffer life imprisonment. All the co-convicts have been granted suspension of substantive sentence of imprisonment

for life, passed against them. The applicant is in jail for little over 7 years. There is no likelihood of the appeal to have its turn for hearing on merits in the near future. True, the applicant assaulted the deceased with a knife. He inflicted 6 stab injuries. There is, however, evidence to indicate that the applicant was not armed with a knife. It was the deceased who first assaulted the applicant on his head with an iron rod. Learned counsel for the applicant may, therefore, be justified to contend it to be a case of the incident to have happened without premeditation in a sudden fight in the hit of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner. True, the applicant inflicted 6 knife blows. He may be said to have acted in a cruel manner. The learned counsel may also be justified in contending that the case falls under exception (1) to Section 300 of the Indian Penal Code, whereunder the culpable homicide is not murder, if the offender, whilst deprived of the power of self control by grave and sudden provocation, causes the death of a person who gave the provocation. According to learned counsel, the deceased and others were aggressors.

3. For the aforesaid reasons, we are inclined to grant the application. Hence the order :

ORDER

- (i) The Criminal Application is allowed.
- (ii) Pending decision of the appeal, the further substantive sentences of imprisonment imposed against the applicant by learned Sessions Judge, Jalgaon by judgment and order dated 2/11/2019, passed in Sessions Case No.106/2015 to stand suspended and the applicant be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.
- (iii) The applicant shall not enter jurisdiction of Jalgaon Taluka including city of Jalgaon for a period of one year from the date of his release on bail.

(R. M. JOSHI, J.)

(R. G. AVACHAT, J.)

fmp/-