

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPEAL NO.112 OF 2022**

Nilesh Moreshwar Tamgadge

**Versus**

State of Maharashtra, through P.S.O., P.S. Pulgaon, Dist. Wardha

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

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Shri N.D. Khamborkar, Advocate for the appellant.

Shri S.D. Sirpurkar, A.P.P. for the respondent/State.

**CORAM : ANIL S. KILOR, J.**

**DATED : 28/03/2022**

1. Heard.
2. **Admit.**
3. Call record and proceedings.
4. Shri S.D. Sirpurkar, learned APP waives service of notice to the respondent/State.
5. Leave to add father of the deceased Samrat, Aashay and injured Rita Dhawale and Naziya Pathan, as party- respondents.
6. Amendment to be carried out within two weeks. Thereupon, issue notice to the newly added respondents, returnable in **four weeks**.

**CRIMINAL APPLICATION(APPA) NO.153 OF 2022**

7. This is an application for suspension of sentence and for grant of bail.

8. The applicant/accused No.1 is convicted for the offence punishable under Section 304 Part-II read with Section 34 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for ten years and to pay fine of Rs.50,000/-, in default to suffer Rigorous Imprisonment for six months. He further sentenced to suffer Rigorous Imprisonment for six months for the offence punishable under Section 337 of the Indian Penal Code and for two years for the offence punishable Section 338 of the Indian Penal Code, six months for Section 184 of the Motor Vehicle Act and six months for Section 185 of the Motor Vehicle Act.

9. Shri Khamborkar, learned counsel for the appellant states that the applicant is having good case on merit and there is every likelihood that they would succeed in the present appeal. He has drawn attention to the findings recorded by the learned Sessions Court while convicting the appellant and it is submitted that the findings were recorded without any evidence.

10. Shri Sirpurkar, learned APP strongly opposes the present application and prays for rejection of the application.

11. After going through the impugned judgment and order, I am of the opinion that re-appreciation and re-appraisal of the evidence is required. Moreover, this appeal would not come up for final hearing in near future. Therefore, I am of the opinion that the present application needs to be allowed. Furthermore, the appellant was on bail during the trial and he has not misused the liberty.

12. Accordingly, the application is **allowed** and sentence imposed by the learned Additional Sessions Judge, Wardha in Sessions Case No.107 of 2015 vide judgment dated 18.11.2021, is suspended till disposal of the appeal and applicant shall be released on bail on his executing P.R. Bond for Rs.15,000/- with one solvent surety in the like amount.

The application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]