

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

**CRIMINAL APPLICATION (APPA) 494 OF 2022**

**IN**

**CRIMINAL APPEAL 407 OF 2022**

(Dilip s/o Ramchandra Madavi..vs..State, thr PSO, PS, Mangrul Chavala, Taluka  
Nandgaon Khandeshwar, District Amravati)

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*Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.*

*Court's or Judge's orders.*

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Mr. D.L. Dharmadhikari, counsel for applicant/appellant.  
Mr. T.A. Mirza, APP for respondent/State.

**CORAM: ROHIT B. DEO AND ANIL L. PANSARE, JJ.**

**DATE: 30.09.2022**

We have heard learned counsel

Mr. D.L. Dharmadhikari and the learned APP Mr. T.A. Mirza on  
the aspect of suspension of sentence pending appeal.

2. The appellant is convicted for offence punishable  
under section 302 of the Indian Penal Code vide judgment dated  
5.3.2022, in Sessions Case 137 of 2020, rendered by Additional  
Sessions Judge, Amravati and is sentenced to suffer life  
imprisonment.

3. Deceased Mr. Sagar Madavi and the appellant are both  
close relatives of the informant Mrs. Sonabai Madavi (PW 1).

4. The prosecution case is that at 8.00 p.m., on

18.5.2020, the accused had an altercation with Mr. Sagar Madavi and the bone of contention was the construction of residential house. The prosecution case is that while Mr. Sagar was sleeping in the courtyard of the residential house of Mrs. Sonabai, the accused came there and assaulted Mr. Sagar on his chest with a sickle. Mrs. Sonabai woke due to the commotion and requested the accused not to assault Mr. Sagar. The accused then went to the house of Mr. Gajanan Uikey (PW 2) who was the Police Patil of the village and confessed that he had assaulted Mr. Sagar.

5. Mr. Sagar succumbed due to the injuries suffered.
6. The focus of the submission is that Mrs. Sonabai did not support the prosecution. While we are not inclined to minutely examine the evidence on record at this stage, prima facie, we find that Mrs. Sonabai has indeed supported the prosecution to the extent she admits in the cross-examination conducted by the learned Public Prosecutor, that the assailant went to the house of Mr. Gajanan Uikey. She is not supporting the prosecution to the extent of the identity of the assailant.
7. We have scrutinized the evidence of PW 2

Mr. Gajanan Uikey, who has deposed that the accused came to his house and candidly confessed of having assaulted Mr. Sagar. Mr. Gajanan Uikey has withstood the test of cross-examination, which in any event, appears to be ineffective, to put it conservatively. We note that there is no suggestion given to the witness Mr. Gajanan Ukey that the accused did not make the extra judicial confession.

8. Considering the evidence on record, we do not find that case for suspension of sentence is made out.

9. However, since we are not suspending the sentence, the appeal will have to be heard expeditiously.

10. Let the paper book be kept ready within the next four months.

11. The appeal shall be listed for final hearing immediately after the paper book is ready.

(ANIL L. PANSARE, J.)

(ROHIT B. DEO, J.)