

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

CRIMINAL APPLICATION (APPA) NO. 900 OF 2022

IN

CRIMINAL APPEAL NO. 688 OF 2022

(Arjun s/o Krushnarao Nandanwar ..vs.. State of Maharashtra, through PSO, PS Lakadganj, Nagpur)

WITH

CRIMINAL APPLICATION (APPA) NO. 170 OF 2022

IN

CRIMINAL APPEAL NO. 134 OF 2022

(Vinod s/o Laxman Jagre ..vs.. State of Maharashtra, through PSO, PS Lakadganj, Nagpur)

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

Court's or Judge's orders

Mr. A.D. Bhate, Counsel for the appellant in Criminal Appeal 688/2022,
Mr. Sahil Umredkar, Counsel for the appellant in Criminal Appeal
134/2022,
Mr. M.K. Pathan, Addl.P.P. for the respondent/State.

**CORAM : ROHIT B. DEO &
URMILA JOSHI-PHALKE, JJ.**
DATED : 08-12-2022

We have heard the learned Counsel Mr. A.D. Bhate and Mr. Sahil Umredkar for the appellants-accused and the learned Additional Public Prosecutor Mr. M.K. Pathan for the State.

2. Suspension of sentence is sought *inter alia* on the ground that the version of the eyewitnesses is not confidence inspiring. In particular, the testimony of PW 4-Sunil Umredkar and PW 5-Pranay Paunikar is attacked on the ground that their conduct is unnatural. Emphasize is placed on the admission extracted from PW 4-Sunil Umredkar that although he was at the spot of the incident when the police arrived, he did not then disclose

the incident to the police and revealed the same only after ten to fifteen days.

3. We have given due consideration to the ocular account. While we are not inclined to make any positive observation at this stage, we may record our *prima facie* view that the evidence of PW 1-Shubham Larokar does not suffer from the infirmities, which according to the learned Counsel for the appellants mar the testimony of PW 4-Sunil Umredkar. In so far as PW 5-Pranay Paunikar is concerned, he has disclosed the incident to the police on the next day. This is not the stage to appreciate the conduct of the witnesses and we leave that aspect to be addressed at the stage of final hearing of the appeal. Considering that the ocular account has received corroboration *inter alia* from the forensic evidence and detection of human blood on the clothes of the accused and the weapons discovered pursuant to the memorandum statement given by accused Vinod and accused Vishal to whom the role of violent and brutal assault with knife is attributed, we do not find that any exceptional case is made out for suspending the sentence. We have given due consideration to the role played by accused 2 and 4. *Prima facie*, we find substance in the submission of Mr. M.K. Pathan that but for the fact that the deceased was totally immobilized by the said accused, such brutal assault may not have been possible. This of course is only a *prima facie* observation made only for the purpose of deciding the applications for

suspension of sentence.

4. Since we are not inclined to suspend the sentence, the appeals will have to be heard expeditiously.

5. The applications for suspension of sentence are rejected.

Criminal Appeals 134/2022 & 688/2022

Record and proceedings is already received.

2. The appellants may place on record private paper-book within the next week.

3. List the appeals for final hearing on 09-1-2023.

4. If for any reason not attributable to any of the accused, the appeals are not heard finally within the next four months, the appellants are at liberty to renew their request for suspension of sentence.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

adgokar