

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.87 OF 2023
IN APEAL/56/2023**

DADU @ JAYSING S/O JABBO PAWARA
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. N. S. Shah h/f. Mr. Swapnil S. Patil
APP for Respondent - State : Mr. S. J. Salgare
...

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 22nd JUNE, 2023

PER COURT :

1. Present application has been filed for suspension of substantive sentence. Accused was prosecuted in Sessions Case No. 53 of 2015 before the learned Additional Sessions Judge, Dhule. He has been held guilty for offence punishable under sections 302 as well as 307 of Indian Penal Code on 19.01.2016.

2. Heard learned advocate Mr. N. S. Shah holding for Mr. S. S. Patil for applicant and learned APP for Respondent - State.

3. Both of them have taken us through the evidence that was before the learned Trial Judge. Perusal of the FIR lodging by the father of the deceased would show that he was not present at

the spot and therefore his FIR is on the basis of information supplied to him by eye witnesses. Here, PW-5 Prakash is the injured eye witness. He has categorically stated that accused has stabbed him as well as he had seen accused stabbing deceased with knife. The injuries on the person of PW-5 have been proved by adducing medical evidence. The autopsy doctor has opined that the death due to haemorrhagic shock due to puncture of heart due to stab injury. The said knife has been discovered by the present appellant and the evidence of the panchas as well as Investigating Officer has been lead by the prosecution.

4. With these evidence which appears to be *prima facie* sufficient and also the fact that the appellant was not on bail throughout the trial, we do not find this to be a fit case where the sentence should be suspended. Hence, application stands dismissed.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)