

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

52 CRIMINAL APPLICATION NO.267 OF 2023
IN APEAL/72/2023 WITH APEAL/72/2023

BHAGWAT ASHRUBA JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Gaikwad Anil M.
APP for Respondent-State : Mr. S. P. Deshmukh.
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CORAM : S. G. MEHARE, J.
DATE : 17.08.2023

PER COURT :-

1. Heard the learned counsel for the applicant and learned APP for the respondent-State.
2. The applicant who killed his son has been convicted to suffer R.I. for 7 years for the offence punishable under Section 304 Part II of the IPC.
3. Learned counsel for the applicant would submit that the applicant has undergone around three (3) years imprisonment. It is a short term sentence. There are no exceptional circumstances to decline the suspension of the sentence. The appeal may take its time to conclude. There were no

antecedents to the discredit of the applicant. The deceased and the applicant both were under the influence of liquor at the time of the incident. The incident happened out of the sudden quarrel. The applicant has a good defence to contest the appeal. The entire evidence needs to be re-appreciated. He is behind bars for sufficient period. Hence, the sentence may be suspended.

4. Learned APP would submit that the applicant has committed the murder of his son. The evidence has been properly appreciated. The gravity of the offence itself is a ground to deny the suspension. There are no good grounds to suspend the sentence.

5. The normal rule for suspending the sentence is to suspend the sentence, if there are no exceptional circumstances. No doubt, gravity is one of the ground to be considered, but, the facts of the case also needs to be examined. It is the case of quarrel between the father and the son. Under the influence of liquor, they were fighting and the incident happened. The applicant has no antecedents. He has undergone around three (3) years of sentence which is about

to half of the sentence imposed upon him. The applicant is 44 years old. The appeal may take its time. The appeal is not likely to be concluded in near future. Hence, the following order :

ORDER

- (i) Criminal Application is allowed.
- (ii) The execution, implementation, effect and operation of the sentence imposed upon the applicant by the learned Additional Sessions Judge, Ambajogai by his judgment and order dated 24.02.2022, to suffer R.I. for seven (7) years, in Sessions Case No.51 of 2020 stands suspended till conclusion of the appeal.
- (iii) Applicant be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount.
- (iv) The applicant shall not create nuisance in the family.

- (v) He shall keep contacts with the lawyer appointed for him and shall not protract the appeal.
- (vi) Bail before the learned Additional Sessions Judge, Ambajogai.
- (vii) Call Record and Proceedings.
- (vii) Stand over to 06.10.2023.

(S. G. MEHARE, J.)

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vmk/-