

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

**906 CRIMINAL APPLICATION NO.987 OF 2023
IN
CRIMINAL APPEAL NO.949 OF 2023**

**NANABHAU RAMSING BHIL
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. V.P. Patil, Advocate for applicant

Mr. A.M. Phule APP for respondent

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

DATE : 27th OCTOBER, 2023

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed for suspension of sentence. Present applicant is the original accused in Sessions Case No.27/2021, who came to be convicted for the offence punishable under Sections 307 and 326 of the Indian Penal Code, 1860. It is to be noted that he was sentenced to suffer imprisonment for life, but since he is poor no fine has been awarded. Further, though he has been held guilty under Section 326 of the Indian Penal Code, but when he has been sentenced for the offence under Section

307 of the Indian Penal Code, no separate sentence has been awarded by the learned Additional Sessions Judge, Amalner on 07.12.2022.

2 Heard learned Advocate Mr. V.P. Patil for the applicant and learned APP Mr. A.M. Phule for the respondent and perused the material which was before the learned trial Judge.

3 At this stage itself we would clarify that we are considering the evidence for a limited extent i.e. whether case is made out for grant of suspension of sentence.

4 Learned Advocate appearing for the applicant/appellant submitted that the appellant has every hope of success in the appeal. His appeal is admitted and it will take long time to hear his appeal and the appellant is in jail since the date of his arrest. He also submitted that informant PW 1 Dnyaneshwar Bhimrao Shirsath has filed affidavit stating that he has no objection for grant of bail to the applicant/appellant.

5 Per contra, the learned APP strongly objected the application and submitted that PW 1 Dnyaneshwar had sustained serious injuries and there is ample evidence on record against the appellant. Though Dnyaneshwar has allegedly filed the affidavit, it will be of no use because the offence which has

been proved against the applicant is against State. It appears that the appellant was addicted to liquor and when informant refused to give him bidi, in anger he had assaulted the informant by blade.

6 At the outset, on the point of affidavit that has been filed by PW 1 Dnyaneshwar we would like to say that this Court has not called upon Dnyaneshwar to file any affidavit. It appears to be at the instance of relative of the accused, but this Court will have to consider the evidence that has come on record and not the affidavit.

7 PW 1 Dnyaneshwar has stated as to how the accused caused him injury. He has specifically stated that he could not come to know which weapon has been used but it was a sharp weapon causing bleeding injury. He has stated that the injury was from the left side of his neck to the middle of the neck. He was admitted for about 10-12 days in the hospital and about 30 stitches were given. Testimony of PW 2 Devidas Koli, who is the shop owner in whose presence the incident took place, is said to be supporting PW 1. Evidence of PW 5 Dr. Suresh Patil would show that the size of the injury was 15 x 2 x 3 c.ms. Injury was deep structure with sharp weapon. The nature of the injury was grievous. Therefore, taking into consideration the situs chosen the trial Judge appears to have concluded that offence under Section 307 of

the Indian Penal Code has been made out. There appears to be ample evidence against the applicant. Hence, no case is made out for grant of bail by suspending his sentence. Application stands rejected.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)

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