



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4041 OF 2023
IN
CRIMINAL APPEAL NO.143 OF 2020

Pravin @ Bhangarya Bhimrao Patil
Age: 31 years, Occu.: Labour,
R/o. Govind Nagar, Pachora
Tq. Pachora, Dist. Jalgaon.

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....
Mr. V. R. Dhorde, Advocate for applicant.
Mr. S. D. Ghayal, APP for the respondent – State.
.....

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

DATE : DECEMBER 18, 2023.

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

. Present application has been filed for suspension of substantive sentence. The applicant is the original accused No.1 in Sessions Case No.64 of 2017, who has been held guilty under Section 302 read with Section 34 of Indian Penal Code on 24.12.2019 by learned Additional Sessions Judge, Jalgaon. He has been sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.7,000/- in default to suffer simple imprisonment for two months for committing offence punishable

under Section 302 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. V. R. Dhorde for the applicant and learned APP Mr. S. D. Ghayal for the respondent – State.

3. It will not be out of place to mention here that the present applicant had earlier filed Criminal Application No.2105 of 2021 in the present appeal itself and after hearing learned Advocate for the applicant for some time, on instructions, he sought leave to withdraw the application with liberty to the applicant to file an application for expeditious hearing of the appeal. By order dated 25.02.2022, the said application came to be dismissed with liberty as prayed. However, now again the application has been filed. Learned Advocate for the applicant frankly admitted that since the then Bench was not in favour of granting any relief to the applicant, the application was withdrawn. Under this ground itself, we are constrained to reject the present application, as this Court cannot sit in appeal. Further, we expect that when such withdrawal is upon the disinclination shown by the Bench, then after a new Bench comes, there should not be an attempt to file an application on the same ground and for the same prayer. Further, liberty was granted to the applicant to file application for expeditious hearing of the appeal. However, till today no such application has been filed on behalf of the applicant. This shows the attitude of the applicant. We would have definitely consider the application on its merits, if there

would not have been a previous application and its rejection on the count of disinclination and, therefore, we refrain ourselves from considering the matter on merits. Merely because the co-accused/co-appellants have been granted relief, the applicant will not get a right. The application stands rejected.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm