



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

CRIMINAL APPLICATION (APPA) NO.766 OF 2023 IN
CRIMINAL APPEAL NO.202 OF 2023

Anmol S/o Muneshwar Ukey Vs. The State of Maharashtra

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

Court's or Judge's orders.

Shri R.B. Gaikwad, Advocate for applicant.
Shri M.J. Khan, APP for non-applicant/State.

CORAM : VINAY JOSHI &
M.W. CHANDWANI JJ.
DATE : OCTOBER 25, 2023.

Heard.

2. This is an application of appellant no.2 – Anmol Muneshwar Ukey (accused no.2) seeking suspension of execution of sentence passed in Sessions Case No.18/2018 by the Additional Sessions Judge, Gondia on 17.01.2023. The appellant no.2 was convicted for the offence punishable under Section 302 read with Section 34 of of the Indian Penal Code and sentenced to suffer imprisonment for life alongwith fine.

3. It is the prosecution case that the deceased had borrowed sum of Rs.500/- from co-accused Vishal. On the date of occurrence, Vishal, Anmol (applicant) and one juvenile in conflict with law had been to the house of the deceased for demanding money. The scuffle took place in which the applicant – Anmol and minor allegedly caught

hold deceased whilst co-accused Vishal given a single knife blow on the chest of deceased, who died instantly.

4. Learned counsel appearing for the applicant would submit that the applicant was not carrying any weapon. The incident was an outcome of sudden quarrel. Moreover, there was a single injury that too at the instance of co-accused Vishal. It is submitted that the applicant's common intention cannot be inferred as the incident was out of anger at the spar of movement.

5. We have gone through the evidence of eye witnesses as well as the postmortem examination report. The allegation against the applicant is restricted to participating in the quarrel and holding the deceased. Moreover, it is the case of single blow in the quarrel. The submission about applicant's prior meeting of mind is a matter of appreciation. The applicant is in jail from last five years. The appeal will take its own time for disposal in accordance with law. From the aforesaid circumstances, we deem it fit to suspend the sentence. In view of that, the criminal application is allowed and disposed of.

6. The execution and implementation of substantive sentence passed in Sessions Case No.14/2018 by the Additional Sessions Judge, Gondia on 17.01.2023 against **applicant – Anmol S/o Muneshwar Ukey** shall stand suspended till final disposal of appeal.

7. In the meantime, the applicant – Anmol S/o Muneshwar Ukey shall be released on bail on his furnishing P.R. bond of Rs.25,000/- with one solvent surety in the like amount.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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