



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION NO. 1094 OF 2023 IN
CRIMINAL APPEAL NO. 664 OF 2023

Mr. Abdul Gani Abdul Sattar

..VS..

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.M. Daga, Advocate for the applicant.
Ms. Haider, Addl.P.P. for the State.

CORAM : VINAY JOSHI AND M.W.CHANDWANI, JJ.
DATED : 26/10/2023.

Heard.

2. This is an application seeking suspension of execution of sentence passed in the Sessions Case No.18 of 2021 by which the applicant Abdul Gani Abdul Sattar (accused no.1) has been convicted for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

3. It is the prosecution case that at the relevant time, the applicant Abdul Gani and co-accused Mohd. Arman Abdul Raheman assaulted the deceased. According to the prosecution, at the relevant time, applicant Abdul Gani fired from Pistol at the person of deceased however the target missed, hence the deceased ran away. According to the prosecution, co-accused Mohd. Arman caught hold the deceased and repeatedly inflicted the knife blows. It is further stated that the applicant dragged the deceased to some extent and then again co-accused stabbed the deceased.

4. We have been taken through the portion of impugned judgment, wherein the Trial Court came to the conclusion that use of Pistol in the occurrence is doubtful. It appears that on the basis of Section 34 of the IPC, the applicant has been convicted. Apparently, the deceased died due to stab injuries and all the injuries were caused by co-accused Mohd Arman. It is a matter to consider whether presence of the applicant on spot and his participation can be construed as an act committed in furtherance of common intention. However, it is not in dispute that several stab injuries which took life of the deceased, were inflicted by co-accused. The applicant was on bail during the trial. The appeal will take its own time for disposal.

5. In view of that we deem it fit to suspend the execution of substantive sentence. Hence the application is allowed. Execution and implementation of substantive sentence passed in Sessions Case No.18 of 2021 as regards to the applicant Abdul Gani Abdul Sattar stands suspended till the disposal of the appeal.

6. In the meantime, the applicant Abdul Gani Abdul Sattar shall be released on bail on his furnishing P.R. bond of Rs.25,000/- with one surety in the like amount.

7. The application stands disposed of accordingly.

(M.W.CHANDWANI, J.)

(VINAY JOSHI, J.)