



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

**CRIMINAL APPLICATION (APPA) NO.1121 OF 2023 IN**  
**CRIMINAL APPEAL NO.687 OF 2023**

Ganesh Rambhau More Vs. The State of Maharashtra

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

Court's or Judge's orders.

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Shri R.M. Daga, Advocate for applicant.  
Shri Jaywant Ghurde, APP for non-applicant/State.

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

Heard.

2. This is an application seeking suspension of execution of sentence passed in Sessions Case No.13/2020 by the Additional Sessions Judge, Darwaha, District Yavatmal on 21.09.2023, whereby accused No.1 – Ganesh Rambhau More was convicted under Section 307 of the Indian Penal Code (IPC) whereby applicant is sentenced to suffer rigorous imprisonment for ten years alongwith fine.

3. It was the prosecution case that the accused no.1 – Ganesh has committed murder of one Suryakant and attempted to commit murder of Sahebrao. In the said incident, accused no.2 – Shubham also assaulted Sahebrao only and thus has committed offence punishable under Section 307 of the IPC. The learned trial Judge has convicted both accused, whereby Ganesh was held guilty for the

offence punishable under Section 302 and 307 of the IPC whilst applicant – Shubham was held guilty for the offence punishable under Section 307 only.

4. The learned counsel for the applicant would submit that there is variance in the evidence of eye witnesses since they have stated differently about the knowledge of the incident. It is argued that the main allegations are against co-accused Ganesh, who has allegedly inflicted repeated knife blows on the injured Sahebrao.

5. We have gone through the evidence of PW5 – injured Sahebrao and two other eye witnesses. Learned counsel for the applicant particularly took us to the medical evidence to show that there were only two CLW injuries at the back of the injured and he was discharged on the very next day from the admission. It is argued that the case as regards to applicants at the most would fall under Section 326 of the IPC.

6. Learned APP resisted this application by pointing towards the direct evidence and nature of weapon used by Shubham. Moreover, it is submitted that only because the complainant party caught hold the applicant, it prevented the further assault. It reveals that there are statements of the witnesses that the applicant gave a single blow at the back of the injured causing him CLW injury. Medical Officer states that on the following date the injured was discharged. It is

matter of appreciation whether accused Shubham possesses requisite intention and knowledge to kill, which is an essential ingredient to establish the offence punishable under Section 307 of the IPC. Moreover, during the trial, the applicant – Shubham was on bail. He is 19 years of age and he was not punished for fixed term of imprisonment. The appeal will take its own time for disposal in accordance with law. In view of that, the criminal application is allowed and disposed of.

7. The execution and implementation of substantive sentence passed in Sessions Case No.13/2020 by the Additional Sessions Judge, Darwham, District Yavatmal on 21.09.2023 against **applicant – Shubham Rambhau More** shall stand suspended till final disposal of appeal.

8. In the meantime, the applicant – Shubham Rambhau More 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.)

*Wagh*