



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

**CRIMINAL APPLICATION (APPA) NO.97 OF 2024**  
**IN**  
**CRIMINAL APPEAL NO.49 OF 2024**

(Arun s/o Ashok Suryawanshi Vs. The State of Maharashtra thr. PSO PS Salekasa, Tq.  
Amgaon, Dist. Gondia)

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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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Mr. Hemant N. Bhondge, Advocate for Applicant.  
Mr. N. B. Jawade, APP for Non-Applicant/State.

**CORAM: M. W. CHANDWANI, J.**  
**DATE: 26<sup>th</sup> FEBRUARY, 2024.**

By the present application, the applicant is seeking suspension of substantive sentence passed in Sessions Case No.57/2017 by the learned Additional Sessions Judge, Gondia. By the impugned judgment and order of conviction, the applicant is convicted for offence punishable under Section 436 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs.20,000/-. The applicant was also convicted for the offence punishable under Section 504 of the IPC and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.2000/- Likewise the applicant was further convicted for the offence punishable under Section 506 of IPC and is sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.3000/-.

2. Heard learned counsel for the applicant as well as learned A.P.P. for the non-applicant/State. The applicant has been convicted for setting fire on the residential house of the complainant.

3. It is contended on behalf of learned counsel for the applicant that the applicant has been convicted only on suspicion and surmise, just because there was quarrel between the applicant and the complainant, sometime before the alleged incident. The applicant submits that the food was being cooked behind the house of the complainant and therefore, accidental fire cannot be ruled out. He submits that the eye witnesses to the incident were not examined. The applicant has been sentenced for fixed term of seven years. Hence, he seeks suspension of sentence, pending the appeal.

4. Per contra, learned A.P.P. for the State vehemently objected the application on the ground that the complainant in unambiguous terms has deposed before the Court that he saw the applicant while extinguishing the kerosene and setting a fire on his hut. According to him, there is ample evidence on record to justify conviction. The applicant's case has no merit in appeal, therefore, he sought rejection of the application.

5. Perusal of record shows that two witnesses who claimed that after hue and cry made by the complainant

they reached on the spot and saw the applicant while running away from the spot, have not been examined by the prosecution. Their evidence would have strengthened the case of the complainant a sole eyewitness that he is an eye witness. Further, in view of the fact that water was being boiled on the hearth behind the hut of the complainant, an arguable case is made out. The conviction is for fixed term of seven years. The appeal will take considerable time. In case the applicant succeeds in appeal, the position will be irreversible. In view of above, a case is made out for suspension of sentence. Hence, this order.

6. The application is allowed. Pending the appeal and the substantive sentence in Sessions Case No.57/2017 shall remain suspended.

7. The applicant shall be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

8. The applicant shall appear before this Court on the date of final hearing of appeal.

9. The application is allowed and disposed of.

**JUDGE**