



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

CRIMINAL APPLICATION (APPA) NO.115 OF 2024 IN
CRIMINAL APPEAL NO.56 OF 2024

Chandrakant alias Chhotu Trambak Pawar and another
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 S.V. Sirpurkar, Advocate for appellants.
Shri Aditya Gohokar, APP for respondent/State.

CORAM : M.W. CHANDWANI, J.
DATE : APRIL 12, 2024.

By the present application, the appellants are seeking suspension of substantive sentence passed by the learned Additional Sessions Judge, Akola in Sessions Case No.126/2016.

2. The appellants have been convicted by the impugned judgment and order for the offence punishable under Section 304-II read with Section 34 of the Indian Penal Code and are sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.2,000/- each.

3. Heard learned counsel for the appellants as well as learned APP for the respondent/State. I have gone through the impugned judgment as well as perused the version of the eye witness and medical evidence.

4. Learned APP opposed the application on the ground that the learned trial Court has rightly convicted the appellants after appreciating the evidence on record and prays for rejection of application.

5. As per version PW3, the appellants assaulted the deceased by fist and kick blows on his face, chest and abdomen and he was fell down by the accused, causing injury on his head. Thus, alleged assault made by the appellants on the person of deceased by fist and kick blows. Whether accused can be attributed with the requisite knowledge of culpable homicide is the question, which can be gone into on merit while scrutinizing the evidence of prosecution witnesses at the time of final hearing of the appeal. The appellants were on bail throughout trial and they did not misuse the liberty. Hearing of the appeal will take considerable time. The conviction is of a fixed term of five years. In case the appellants succeed in the appeal, the position will be irreversible. A case is made out for suspension of sentence. Hence, the following order :

ORDER

- i. The criminal application is allowed.
- ii. Pending appeal, the substantive sentence imposed by the Additional Sessions Judge, Akola in Sessions Case No.126/2016 shall remain suspended.

iii. Appellants – (1) **Chandrakant alias Chhotu Trambak Pawar** and (2) **Trambak Vishnu Pawar** shall be released on bail on they executing PR bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

iv. Appellants shall deposit fine amount, if not deposited.

v. Appellants shall remain present at the time of final hearing of the appeal.

With this, the application stands disposed of.

6. After necessary formality, list the appeal for final hearing, as per its turn.

JUDGE

Wagh