



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

**CRIMINAL APPLICATION (APPA) NO.328 OF 2024**

**IN**

**CRIMINAL APPEAL NO.167 OF 2024**

**[Santosh Sitaram Shahu .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 order*

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Mr Y. G. Mandpe, Advocate for Applicant/Appellant.  
Mr A. Gohokar, APP for Non-Applicant/State.

**CORAM : M. W. CHANDWANI, J.**

**DATE : 6<sup>th</sup> MAY, 2024.**

. Heard.

2. By this application, the applicant is seeking suspension of sentence passed by the learned Additional Sessions Judge, Nagpur, in Session Trial Case No.267 of 2015, thereby convicting the applicant for the offence punishable under Section 304 Part II of the Indian Penal Code, 1860 and sentencing him to suffer rigorous imprisonment for a period of five years with a fine amount of Rs.50,000/-. The applicant was also sentenced to suffer rigorous imprisonment for a period of six months and to pay a fine amount of Rs.1,000/- for the offence punishable under Section 279 of the Indian Penal Code, 1860.

3. It is contended that the victim was coming from wrong side of the road and only this aspect has been observed by the learned Trial Court, still the applicant was convicted for aforesaid offences. According to him, the conviction is for a fixed term of five years, which is relatively shorter. The

applicant has good case on merit and therefore, the application of the applicant be allowed.

4. Per contra, the learned APP for non-applicant/State opposed the application submitting that the applicant, while driving his car, was under the influence of liquor. Therefore, the applicant has no good case on merit and sought rejection of the application filed by the applicant.

5. Considering the fact that the learned Trial Court has observed that the deceased was taking a turn from wrong side of the road, a case is made out to scrutinize the case on merit at the time of final hearing. The applicant has been sentenced for a fixed term of five years, which is relatively shorter. The appeal may not be heard in near future and in case of acquittal, the position will not be reversible. In this peculiar circumstance, a case is made out for suspension of sentence. Hence, I proceed to pass the following order.

### **ORDER**

- i) The criminal application is **allowed**.
- ii) Pending the appeal, the sentence passed by the learned Additional Sessions Judge, Nagpur, in Sessions Trial Case No.267 of 2015, *vide* judgment and order dated 14.03.2024, shall remain suspended.
- iii) The applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount.

- iv) The applicant to pay the fine amount, if not paid.
  - v) The applicant shall appear before this Court, at the time of final hearing of criminal appeal.
- 6. The criminal application is disposed of accordingly.
  - 7. *Hamdast* granted.

(JUDGE)