

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

CRIMINAL APPEAL NO.232 OF 2023

(Sharad s/o Vithobaji Ganorkar Vs. The State of Maharashtra thr. its PSO PS
Kalmeshwar, Dist. Nagpur)

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

Court's or Judge's orders.

Mr. A. C. Jaltare, Advocate for Appellant.
Ms. Kavita Bhondge, APP for Respondent/State.

CORAM: M. W. CHANDWANI, J.

DATE: 24th JANUARY, 2024.

CRIMINAL APPLICATION (APPA) NO.393/2023:

Heard.

2. The applicant has filed this application for seeking suspension of the substantive sentence passed by the learned Additional Sessions Judge, Nagpur vide judgment and order dated 24.03.2023 in Sessions Trial No.279/2022.

3. The applicant has been convicted for the offence punishable under Section 304 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.5000/- and in default of payment fine to lead simple imprisonment for the period of twelve months.

4. It is the contention of the learned counsel for the applicant that when the applicant was having altercation with his mother the deceased hurled stone on the person of applicant, the applicant pushed the victim whereby she fall and sustained injuries. According to him, in

cross-examination of PW-4 wherein he has admitted that when the deceased was going on the person of the applicant, the applicant in his defence pushed her, therefore, she sustained injury. The learned counsel for the applicant further submits that the sentences for a fixed term. Therefore, the applicant be released on bail pending appeal.

5. The learned APP objected on the ground that there is medical evidence in support of the case of the prosecution which has been appreciated by the learned Sessions Court there is no chance to the applicant to succeed in the appeal.

6. Considering the evidence on record an arguable case is made out, the applicant has been convicted for a fixed term of five years, which is a relatively shorter term. The appeal may not be heard in the near future. The applicant has already undergone half of the sentence awarded to him, a case is made out for suspension of the substantive sentence awarded to the applicant. Hence, the following order:

- [i] The application is allowed.
- [ii] During the pendency of the appeal, the substantive sentence passed by the learned Additional Sessions Judge, Nagpur, vide judgment and order dated 24.03.2023 in Sessions Trial No.279/2022 shall remain suspended.

[iii] 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.

[iv] The applicant shall appear before this Court on the date of hearing of appeal.

The Registry is directed to process the appeal as per rule.

JUDGE

NSN