



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

CRIMINAL APPLICATION (APPA) NO.544 OF 2024

IN

CRIMINAL APPEAL NO.307 OF 2024

[Amol Mahadeo Bokade ..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 order

Mr R. L. Alone, Advocate for Applicant/Appellant.
Ms M. H. Deshmukh, APP for Non-Applciant/State.

CORAM : SMT. M. S. JAWALKAR AND
M. W. CHANDWANI, JJ.

DATE : 5th DECEMBER, 2024.

1. Heard.

2. The applicant/appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for life and directed to pay fine of Rs.10,000/-. Pending the appeal, the applicant has filed application for suspension of sentence.

3. The contention is that the applicant had no intention of committing the murder of deceased Sonu alias Rajaram. The presence of the eye witness PW-1 - Jaya, who is the wife of deceased Sonu, is also doubtful and appeared to be present in the house, whereas an incident took place outside the house. There is only one injury and the weapon found is merely a wooden rafter. According to him, there are chances that the offence may be converted into lesser one in the appeal, therefore sought suspension of sentence.

TAMBE

4. Per contra, learned Additional Public Prosecutor appearing on behalf of the non-applicant/State raised the objection submitting that there is an eye witness to the incident. The Trial Court in its judgment and order dated 26.12.2023 has opined that the injury caused is sufficient to cause of death, therefore, the learned Trial Court has rightly convicted the appellant under Section 302 of the IPC and sought rejection of the application.

5. Having heard learned counsel for the respective parties and having gone through the impugned judgment of the Trial Court and depositions of the witnesses, we find that there is only one injury on the head of deceased, which is shown as cause of death. The fact remains that the other accused themselves went to the Police Station for informing the incident. It is also appearing from the record that after inflicting one injury on his head by wooden rafter, no further injuries were caused. Thus, there is arguable point in this appeal whether the offence can be categorized in lesser offence for want of intention to kill, which will be decided at the time of final hearing of the appeal. The appeal is a recent one; other old appeals are pending. The present appeal may not be heard in near future. In the event of finding of guilt against the appellant for a lesser offence, the position would be irreversible.

6. In view of the above, we find that the case is made out for suspension of sentence. Hence, we proceed to pass the following order :

ORDER

- i) Pending the appeal, the substantive sentence passed by the learned Sessions Judge, Chandrapur in Sessions Case No.17 of 2017, shall remain suspended.
 - ii) The applicant Amol Mahadeo Bokade shall be released on bail on his furnishing P.R. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.
7. The criminal application is disposed of accordingly.

(M. W. CHANDWANI, J.)

(SMT. M. S. JAWALKAR, J.)