



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

CRIMINAL APPLICATION (APPA) NO. 740/2024

IN

CRIMINAL APPEAL NO. 415/2024

Rohit Ashok Yadav and Anr. 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

Mr. R. M. Daga, Advocate for Applicant.
Mr. N. H. Joshi, A.P.P. for Non-applicant/State.

CORAM : VINAY JOSHI AND MRS.VRUSHALI V. JOSHI, JJ.
DATED : 26/08/2024.

. Heard.

2. This is an application of accused No.2 Ajay Ganesh Yadav seeking suspension of execution of sentence in Sessions Case No.222/2022. All three accused were tried for the offence of murder. However accused No.3 Jay was acquitted. The applicant – Ajay and co-accused Rohit stand convicted.

3. The learned Counsel for the applicant would submit that the entire prosecution case is based on sole eye witness i.e. informant named Satish. It is submitted that there is inconsistency in the statement of the informant vis-a-vis the brother of deceased. It is argued that supplementary statement does not assign the role to the applicant as well as the informant changed the version by stating that five persons caught hold the deceased.

4. With the assistance of both sides, we have gone through the material on record. The applicant – Ajay has been convicted with the aid of Section 34 of the Indian

Penal Code. Admittedly, the allegation of assault at throat by knife is against co-accused Rohit only. It reveals that there are some inconsistencies, which needs to be appreciated at the time of final hearing. Postmortem note discloses that there was only one injury to the deceased. Nothing was seized from the applicant – Ajay nor his clothes were blood-stained. During trial, the applicant was on bail. In the circumstances, the applicant has made out an arguable case and thus, we are inclined to exercise our judicial discretion. Hence, the following order :

- I] The application is allowed.
 - II] Execution of substantive sentence passed in Sessions Case No.222/2022 as regards the applicant Ajay Ganesh Yadav stands suspended till final disposal of the appeal.
 - III] In the meantime, the applicant Ajay Ganesh Yadav shall be released on bail on furnishing PR bond of Rs.50,000/- (Rs. Fifty Thousand Only) with one surety in the like amount.
5. The application stands disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)