



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

CRIMINAL APPLICATION (APPA) NO. 951 OF 2024

IN

CRIMINAL APPEAL NO. 101 OF 2022

(Sandip s/o Sunil Dongare Vs. State of Maharashtra thr PSO, PS Chandrapur)

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

Court's or Judge's orders

Ms. S.B. Khobragade, Advocate for applicant.
Ms. Mayuri Deshmukh, APP for respondent /State.

**CORAM : VINAY JOSHI &
ABHAY J. MANTRI, JJ.**

DATED : 21-10-2024

Heard.

2. This is an application seeking suspension of execution of sentence passed by learned District and Sessions Judge, Chandrapur, in Sessions Case No. 81/2015, whereby the applicant Sandip along with three others have been convicted for the offence punishable under Section 302 of the Indian Penal Code (IPC).

3. The suspension is primarily sought on account of parity. This Court has suspended execution of sentence and granted bail to rest three convicted accused namely, Pankaj, Rajesh and Kartik in Criminal Application (APPA) No. 716/2024, vide order dated 10.9.2024.

4. We have considered the reasons assigned by us while suspending execution of sentence of co-accused. We have also gone through the evidence of PW Nos. 2,5 and 10, who supported the oral dying declaration. Apparently, the

allegation against all assailants are one and the same. Though there were two eye witnesses, they turned hostile, hence, the evidence against accused was in the nature of circumstantial evidence. The learned APP conceded that there are distinct allegations against applicant Sandip. It is not in dispute that applicant is equally behind bars from last ten years i.e. from 30.4.2015. Exactly similar circumstances arose in case of present applicant and thus rule of parity applies. We see no distinction in view to claim exception. In the circumstances, we pass following order:

- i) The application is allowed and disposed of.
- ii) We hereby suspend execution of substantive sentence passed in Sessions Case No. 81/2015 against the applicant Sandip till disposal of the appeal.
- iii) In the meantime, applicant shall furnish P.R. bond of Rs. 50,000/- with one solvent surety of like amount.
- iv) The applicant shall attend concerned Police Station on 1st Monday of every month between 10.00 a.m. to 12.00 noon till conclusion of the appeal.

(ABHAY J. MANTRI, J.)

(VINAY JOSHI, J.)