



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

CRIMINAL APPLICATION (APPA) NO.132 OF 2024

IN
CRIMINAL APPEAL NO. 63 OF 2024

Durwas Bhagwan Kohad -Vs-State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. M.V.Acharya, counsel for the applicant.
Mr. S.S.Doifode, A.P.P for non-applicant-State.

**CORAM VINAY JOSHI &
 MRS. VRUSHALI V.JOSHI, JJ.**

DATE : 27th MARCH, 2024.

1. This is an application filed by the accused No.5 Durwas Bhagwan Kohad seeking suspension of execution of sentence.

2. The learned counsel appearing for the applicant would submit that though initially, the applicant along with co-accused was charged for the offence of Indian Penal Code and the Maharashtra Control of Organised Crime Act, 1999 (hereinafter referred to as the "MCOC Act"). However, trial court has acquitted from the charges under MCOC Act. Particularly, the applicant would submit that this Court has suspended sentence of accused No.7 Tayyub Shamsheer Sheikh having exactly similar role and thus, the rule of parity would apply.

3. We have gone through our earlier order dated 20.12.2023 passed in application No.682 of 2023 in

which we have considered the material against Tayyub Shamsher Sheikh and ultimately granted suspension.

4. We have revisited the entire material along with evidence of the only witness PW-3 victim and find that the material against applicant Durwas Bhagwan Kohad is exactly same like Tayyub Shamsher Sheikh. Besides that nothing has been pointed out to distinguish the role of applicant Durwas Bhagwan Kohad from Tayyub Shamsher Sheikh. In view of that on the basis of mere delayed identification, liberty cannot be permitted. The rule of parity would apply.

5. In view of above, application is allowed. The execution of substantive sentence passed against the applicant Durwas Bhagwan Kohad (accused No.5) stands suspended till the disposal of the appeal.

6. In the meantime, applicant- Durwas Bhagwan Kohad shall be released on bail on his furnishing PR bond of Rs.50,000/- with one surety in the like amount. The applicant shall attend the concerned Police Station on first Monday of each month between 10.00 a.m. and 2.00 p.m., till disposal of the appeal.

7. The application stands disposed of accordingly.

JUDGE

JUDGE