



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

**CRIMINAL APPLICATION (APPA) NO. 187 OF 2024**

**IN**

**CRIMINAL APPEAL NO. 105 OF 2024**

Sanjay S/o. Lakhanlal Gandhe (In Jail)

Vs.

The State of Maharashtra

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

Court's or Judge's Order

Shri D. V. Mahajan, Advocate for applicant.  
Ms. Kavita Bhondge, APP for non-applicant/State.

**CORAM :- M. W. CHANDWANI, J.**

**DATED :- 01.03.2024**

Heard.

2. By the present application, the applicant is seeking suspension of substantive sentence passed by the learned Sessions Judge, Gondia vide judgment and order dated 03.02.2024 in Sessions Case No. 46/2018, whereby the applicant has been convicted for the offence punishable under Section 306 of the Indian Penal Code (IPC) and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.5000/-, in default to suffer rigorous imprisonment for four months. The applicant was also convicted for the offence punishable under Section 498A of the IPC and sentenced to suffer rigorous imprisonment for three years and to pay fine of

Rs.3000/-, in default to suffer rigorous imprisonment for two months.

3. The learned counsel for the applicant submits that there was no demand of dowry at the hands of the applicant. The mother of the applicant has been acquitted in the present case. According to him, the material available on record is not sufficient to record finding of guilt of the applicant. The applicant has been convicted for a fixed term of five years. The applicant has a case on merit hence, pending the appeal the substantive sentence be suspended.

4. *Per contra*, the learned APP for the non-applicant/State objected the application on the ground that the applicant was continuously harassing the deceased and due to harassment made by the applicant, by demanding dowry, the deceased committed suicide. She supported the judgment of the Trial Court and submitted that the applicant has no case on merit and sought rejection of the application.

5. With the able assistance of the learned counsel for the applicant and the learned APP for the State, I have gone through the impugned judgment and deposition of the witnesses.

6. The alleged incident has occurred after more than seven years of the marriage of the applicant and the victim. It is also deposed by the mother of the deceased that the apart from the demand of dowry, the applicant

was having extra-marital relationship with other girl. An arguable case is made out whether the acts of the applicant amounts to abetment within the meaning of Section 306 of the IPC. The applicant is convicted for a fixed term of five years and the appeal may not be heard in near future. In case the applicant succeed in the appeal, the position would be irreversible. The applicant was on bail during the trial. A case is made out for suspension of substantive sentence pending the appeal. Hence, I proceed to pass the following order:-

- i) The application is allowed.
- ii) Pending the appeal, the substantive sentence passed by the learned Sessions Judge, Gondia vide judgment and order dated 03.02.2024 in Sessions Case No. 46/2018 shall remain suspended.
- iii) The applicant be released on bail, on furnishing a PR bond of Rs.25,000/- (Rs. Twenty Five Thousand) with one solvent surety in the like amount.
- iv) The applicant shall appear before the Court at the time of final hearing of the appeal.

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

(M. W. CHANDWANI, J.)