



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

CRIMINAL APPLICATION (APPA) NO.257 OF 2024

IN

CRIMINAL APPEAL NO.140 OF 2024

Santosh Rambhau Daf -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.R.M.Daga, counsel for the applicant.
Ms.Kavita Bhondge, A.P.P for respondent-State.

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

DATE : 18th SEPTEMBER, 2024.

1. Heard.
2. This is an application seeking suspension of execution of sentence to the extent of applicant (accused No.3) Santosh Rambhau Daf passed by Additional Sessions Judge (Court No.2) Hinganghat in Sessions Case No.140 of 2017.
3. Applicant Santosh Rambhau Daf along with his two sons have been convicted for the offence punishable under Section 302 r/w 34 of the Indian Penal Code. It is the prosecution case that the deceased along with his companions was seated in public place and were gambling. At the relevant time, all accused arrived, assaulted the deceased by means of axe and stick which took the life.
4. The learned counsel appearing for the applicant took us through the evidence of three eye witnesses i.e. PW-1-Pravin, PW-4 Dnyaneshwar and PW-5 Nilesh. It is pointed out that the consistent allegations about the assault by axe are against co-accused Vinod. Though it is submitted that there is

variance about the role of applicant, everyone states that he was holding stick, however, PW-4 is silent about the role of applicant. Moreover, it is argued that PW-5 has not disclosed the role of the applicant in his statement before the Magistrate.

5. Besides that it is submitted that the applicant is 68 years of age. His both sons are behind bars and particularly, during trial, he was on bail. Considering all above aspects and particularly, appeal will take it's own time for hearing, we deem it appropriate to exercise our judicial discretion.

6. In view of above, application is allowed. Execution of substantive sentence passed by Additional Sessions Judge (Court No.2) Hinganghat in Sessions Case No.140 of 2017 against the applicant Santosh Rambhau Daf shall stands suspended till the disposal of appeal.

7. The applicant shall furnish P.R bond of Rs.50,000/- (Rs. Fifty thousand only) with one solvent surety of like amount.

8. The trial court shall ensure deposit of entire fine amount imposed against the applicant before issuance of release warrant.

9. The criminal application stands disposed of in above terms.

JUDGE

JUDGE