

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD.

902 CRIMINAL APPLICATION NO.281 OF 2025  
IN  
CRIMINAL APPEAL NO.10 OF 2025

Sandip Sheshrao Sakhale

....Applicant

**Versus**

The State of Maharashtra

.....Respondent

.....

Shri. N. S. Ghanekar, Advocate for the Applicant

Shri. N. S. Tekale, APP for the Respondent / State

.....

**CORAM :** R. G. AVACHAT AND  
NEERAJ P. DHOTE, JJ.

**Dated :** FEBRUARY 06, 2025

**PER COURT :-**

. This is Application for suspension of substantive sentence awarded by the learned Additional Sessions Judge, Aurangabad *vide* Judgment and Order dated 13.12.2024 passed in Sessions Case No. 255 of 2021 convicting the Applicant for the offence punishable under Sections 302 and 307 of the Indian Penal Code.

2. Heard the learned Advocate for the Applicant / Appellant and the learned APP for the State. Perused the evidence on record.

3. The case of the Prosecution, in brief, is that there was dispute between the family of Deceased on one hand and the Applicant / Appellant and his family on the other hand in respect of partition of agricultural land. On 10.07.2021 at about 05:30 p.m. there was quarrel

between PW10 – Sagar @ Santosh Digambar Sakhale (son of the Deceased Digambar) and the Applicant / Appellant and his brother by name Yogesh. PW10 - Sagar @ Santosh Digambar Sakhale went to his field and informed about the quarrel to his father i.e. Deceased, mother and brother. Thereafter, Deceased, PW10 - Sagar @ Santosh Digambar Sakhale, his brother and mother came to the agricultural field and questioned the Applicant / Appellant about the said quarrel. Again quarrel took place between them which resulted in scuffle. In the said scuffle, the Applicant / Appellant gave blow by Axe on the head of Deceased and acquitted Co-Accused also assaulted Deceased and witnesses with the Sticks of Cot. The Applicant / Appellant and his co-Accused brother also suffered injuries in the said incident. Both the sides lodged Report with the concerned police station and Case and Cross-Case came to be registered. The father of PW10 - Sagar @ Santosh Digambar Sakhale succumbed to the injuries. The cause of death was 'Head Injury'. The crime for the offence punishable under Sections 302, 307, 323, 504 506 r/w. Section 34 of the Indian Penal Code came to be registered against the Applicant / Appellant and acquitted Accused. Similarly, crime came to be registered against Deceased and PW10 - Sagar @ Santosh Digambar Sakhale for the offence punishable under Sections 324, 323, 504 r/w. Section 34 of the I.P.C. The witnesses and Deceased in the present case, who were Accused in the crime registered at the instance of Accused in the present case,

came to be acquitted and the Applicant / Appellant came to be convicted for the offence punishable under Sections 302 and 307 of the Indian Penal Code.

4. From the evidence available on record, it is clear that incident of scuffle and assault took place. It is also clear from the record that the Applicant / Appellant also suffered injuries, though simple in nature. The evidence of the eye witnesses shows that the role attributed to the Applicant / Appellant is single blow by Axe on the head of Deceased. It is also clear from the evidence of the eye witnesses that the Co-Accused, who were acquitted, also assaulted the Deceased. The medical evidence on record shows the injuries in the nature of Contused Lacerated Wounds and Contusion on Deceased. The medical evidence shows that the Injury No.1 was possible by Axe and also possible by Stick. The evidence of Medical Officer - PW6 Dr. Ajinkya Narayanrao Ingole shows that the Axe, which was seized, was sharp. His evidence further goes to show that, if the injury is caused by sharp edged weapon, then it would cause Incised Wound. The medical evidence on record does not show the injury in the nature of Incised Wound on Deceased. The evidence on record goes to show that the incident preceded the quarrel and scuffle. The other Accused are acquitted by the learned Trial Court and there is no Appeal against the acquittal.

5. The Injury Certificate of PW10 - Sagar @ Santosh

Digambar Sakhale shows that he suffered blunt trauma to the head and blunt trauma to the abdomen and semendel displace fracture of nasal bone right side. For the assault on the said PW10 - Sagar @ Santosh Digambar Sakhale the conviction was for the offence punishable under Section 307 of the I.P.C. The evidence of eye witnesses goes to show that he was also assaulted by the acquitted Co-accused.

6. With this evidence on record, we find merit in the submission of the learned Advocate for the Applicant / Appellant that there is possibility that the conviction may be altered to the lesser offence. The Applicant / Appellant is behind the bars for a period more than Three and Half (3 ½) years. There is no possibility that the Appeal would be heard in the near future. In this view of the matter, we find this case fit for Suspension of the Sentence subject to condition and thus proceed to pass the following order:

#### ORDER

[i] Application is allowed.

[ii] The substantive sentence imposed by the learned Additional Sessions Judge, Aurangabad on the Applicant namely Sandip Sheshrao Sakhale *vide* Judgment and Order dated 13.12.2024 passed in Sessions Case No. 255 of 2021, is suspended during the pendency of the present Appeal.

[iii] The Applicant be released on bail on his furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety in the like amount.

[iv] The Applicant shall not enter the jurisdiction of village Liha, Tal. Sillod, Dist. Aurangabad for a period of 1 (One) year.

[v] Bail before the Trial Court.

7. Criminal Application stands disposed of accordingly.

( NEERAJ P. DHOTE, J. )

( R. G. AVACHAT, J. )

GGP