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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 618 OF 2025
IN
CRIMINAL APPEAL NO.158 OF 2025

Sanjay Mukesh Pawara

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

.....
Mr. Rupesh A. Jaiswal, Advocate for the Applicant
Mr. S. J. Salgare, APP for Respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, &
SANDIPKUMAR C. MORE, J. J.]

DATE : 14th JULY, 2025

ORDER :

1. By this Application, the Applicant - Accused seeks suspension of substantive sentence of life imprisonment imposed on him by Additional Sessions Judge, Dhule in Sessions Case No. 262 of 2022.
2. Applicant - Accused was charged for commission of murder of his wife with axe.
3. Learned Advocate for the Applicant contends that the evidence of PW-4, child witness, is not reliable. According to him, even if the prosecution case is accepted as it is, the offence committed by the Applicant cannot go beyond section 304-II of

the Indian Penal Code, as it has occurred due to sudden quarrel. He, therefore, submits that, considering the fact that the Applicant is in jail since 4th August, 2022 he may be released on bail by suspending his substantive sentence. Learned Advocate for the Applicant has placed reliance on **“Dattatraya V/s The State of Maharashtra” 2024 (2) SCR 989** in support of his submissions.

4. Learned APP strenuously opposed the application by relying on the reasons assigned by the Trial Court while convicting the Applicant.

5. Heard learned Advocate for the Applicant and learned APP for the State. With their assistance, we have perused the record.

6. The record indicates that PW-4, minor son of the Applicant is the eye-witness to the incident and he has supported the prosecution case. He has described the manner in which the quarrel took place and the Applicant assaulted his deceased mother. Clothes of the Applicant having blood stains of blood Group “A” of the deceased were recovered from the Applicant. The Applicant has given false explanation about death of his wife. We, therefore find that there is *prima facie* sufficient material on record to sustain conviction of the Applicant.

7. So far as contention of the Applicant that, the offence would not fall under section 302 of the Indian Penal Code, but it would fall under section 304-II of the Indian Penal Code, is concerned, even if the judgment relied on by the learned Advocate for the Applicant is taken into consideration, the Apex Court has converted the conviction of Appellant therein under section 302 of the Indian Penal Code to that under section 304-II of the Indian Penal Code and sentenced him to suffer RI for 10 years.

In the case is hand, the Applicant has undergone only three years' imprisonment so far. Therefore, the said judgment would not help the case of the Applicant.

8. For the aforesaid reasons, the Application is rejected. Learned Advocate for the Applicant be paid fees as per Schedule within four weeks.

[SANDIPKUMAR C. MORE]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE