



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

**929 CRIMINAL APPLICATION NO. 2705 OF 2025
IN APEAL/537/2025**

Vinod Sahebrao Thakare

VERSUS

The State Of Maharashtra

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Advocate for Applicant : Mr. Bhosle Pratik Arvind

APP for Respondents-State: Mr. D. J. Patil

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CORAM : ARUN R. PEDNEKER, J.

Dated : August 06, 2025.

PER COURT :-

1. Heard both sides.
2. The present application has been filed by the original accused for suspension of the substantive sentence imposed on him in Sessions Case No.40 of 2017, decided on 07/07/2025 by the learned Additional Sessions Judge, Shahada, District Nandurbar. The applicant has been convicted as under : -

"1. Accused Vinod Sahebrao Thakare is hereby convicted for the offence p/u/s 304 (Part II) of the IPC vide the provisions of section 235 (2) of the Cr.P.C & sentenced to suffer Rigorous Imprisonment for 10 years. He shall pay fine of Rs.10,000/- in default, he shall suffer further R.I. for three months. "

3. The learned Counsel for the applicant submits that the applicant has been convicted under Section 304 Part II of the IPC and sentenced to 10 years' Rigorous Imprisonment. It is submitted that the applicant has undergone incarceration for a period of three years and three months. The learned Counsel contends that the sentence imposed is excessive considering the nature of injuries, and that *prima facie* it cannot be held that the applicant caused such injuries as would result in the death of the victim.

4. The learned Counsel further relies on the findings of the Trial Court in paragraph No.16 of the judgment, which records the medical evidence as under : -

“16] The evidence of Medical Officer Shaikh Allaaddin (PW7) is recorded vide Exh.38. The PW7 deposed that, on 17/03/2017 he was on duty. He further deposed that on that day he conducted the postmortem of deceased Bharat Bhima Thakare alongwith Dr.Rajendra Valvi. He further deposed that, he has noticed the following injuries sustained to him.

(i) injuries contusion over neck anterior right and left side of neck, measuring 12 c.m. x 5 c.m. and underlying subcupaneous tissue hemorrhagic noted and muscles at injury site hemorrhagic noted.

(ii) Contusion over left shoulder joint and left arm laterally like as stick impression. Measuring 10 c.m. x 3 c.m. and underlying subcupaneous tissue hemorrhagic.

(iii) Contusion over left clavicle in middle. 2 x 1 c.m. . The Medical officer further deposed that, he found following internal injury ;

(i) Fracture of thyroid cartilage and cricoid cartilage, larynx and trachea thyroid gland. Hemorrhagic in neck region. Laceration of trachea noted anterior 3 cm x 1/2 c.m. Blood clots noted in cavacity of larings, trachea and bronchial tree.”

5. The learned Counsel further submits that the injuries were allegedly caused by a wooden log, but the Trial Court has noted that it is not known whether the wooden log was carried by the applicant or taken from the place of assault.

6. The learned APP strongly opposed the application for suspension of sentence. He submitted that the applicant has been convicted for a serious offence under Section 304 Part II of the IPC, involving the culpable homicide of the deceased. He further submitted that considering the

gravity of the offence, the sentence of 10 years' rigorous imprisonment cannot be termed excessive.

7. Considering the nature of the injuries and the submissions advanced, particularly the contention that the offence may fall within the ambit of Section 325 or 326 of the IPC rather than Section 304 Part II, and taking into account that the applicant has undergone incarceration for three years and three months, the substantive sentence imposed on the applicant deserves to be suspended till final hearing and disposal of the appeal, subject to the condition that the fine amount shall be deposited before the Trial Court, if not already deposited, and on the following terms:

ORDER

- 1) The application stands allowed, subject to the condition that the applicant shall deposit the fine amount before the Trial Court, if the same has not already been deposited.
- 2) The sentence imposed on the applicant/appellant in Sessions Case No.40 of 2017 is hereby suspended till the final hearing and disposal of Criminal Appeal No.537 of 2025.
- 3) The applicant/appellant shall be released on P.R. bond of Rs.30,000/- (Rupees Thirty Thousand only), with two sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.
- 4) The applicant/appellant shall not commit any criminal activity during the pendency of the appeal.
- 5) Bail be furnished before the Trial Court.

(ARUN R. PEDNEKER, J.)

vj gawade/-.