



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

**989 CRIMINAL APPLICATION NO. 3814 OF 2024
IN CRIMINAL APPEAL NO.302/2024**

1] NIVRUTTI BHAUSAHEB KAJABE
2] SAKHARAM BHAUSAHEB KAJABE
3] RAHUL NAVNATH PATOLE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr.S.D.Kotkar

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

...

**WITH
CRIMINAL APPLICATION NO. 2232 OF 2025
IN CRIMINAL APPEAL NO.402/2024**

RAHUL NAVNATH PATOLE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr.Akash Peche

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

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 09.07.2025

P.C. :

1] By order dated 23rd April, 2024 in Criminal Application No.1411/2024, declined the application for suspension of sentence, holding as under :

4. *Perused the papers. It seems that present applicants were booked vide Crime No.60 of 2015 for commission of offence under Sections 307, 323, 504 and 506 of the Indian Penal Code (IPC). Occurrence seems to be of 22-02-2015. According to complaint, accused no.1 invited informant for dinner and during such time, there were some talks on settling the matter pertaining to complaint lodged against accused no.1. First Information Report shows that during conversation, present applicant no.2 Sakharam had entered in the house and returned with articles like axe, iron pipes and such articles were handed over to present applicants and there are allegations of use of axe on the head of Vithal Pandurang Doifode. Hearing his shouts, injured Mahadeo came and he was also targeted and assault was made by use of axe as well as pipes.*

Therefore, apparently roles of all the applicants are coming on record. Perused the injury certificate of injured Mahadeo. He has suffered grievous injury to frontal temporal region. Hospital papers show that after suffering CLW injury, there was complaint about vomiting and he was required to be referred to higher center.

5. *Therefore, taking into consideration nature of accusations, nature of articles used, nature of charge, circumstances in which incident took place, in the considered opinion of this Court, no case is made out for grant of relief....*

2] Fresh application for suspension of sentence is filed before this Court and similar arguments were also advanced, which are noted in order dated 25th June, 2025, as under :

.... The applicants pray for suspension of sentence as the appeal will not be immediately heard within short time. The learned counsel primarily points out the errors in the Judgment. He submits that the medical officer, who issued injury certificate has not been examined nor injury certificate is proved. He submits that the applicants have valid defence of injury caused due to an accident.

5. The learned counsel for the applicants submits that, the entire case of the prosecution on the face of record is improbable that the informant was invited at the residence of the accused for the purpose of dinner and then the issue of compromise is raised at the dinner time in a case filed earlier by the informant against the present applicant no.1 - Nivrutti for offences under the POCSO Act and under Section 376 IPC of committing rape on the minor daughter of Ramdas, who is the brother of the informant. He submits that the theory as regards the informant was called for dinner is highly improbable. He also submits that the defence of the applicants is that there was an accident occurred to the victim and that the victim has suffered injuries and that the case is foisted upon the applicants. He submits that the applicants are in jail for about 16 months and considering the same, the sentence be suspended.

3] The learned counsel for the applicants submit that the appeal may take considerable time for hearing and

that they are in custody since last 16 months. The learned counsel further submits that since the Doctor is not examined, the nature of injury may not have exactly noted and the maximum sentence awarded is of 7 years.

4] Considering the earlier order dated 23rd April, 2024 passed by this Court, this Court will not enter into the merits of the matter. The applicants are in custody since last 16 months and this Court declined suspension of sentence one year back and the appeals are already admitted and appeals may take substantial time to hear. The maximum sentence awarded is of 7 years. In view of the same, I pass the following order :

ORDER

i] Criminal Applications are allowed.

ii] The substantive sentence imposed on the applicants in Sessions Case No. 08/2017, dated 15.03.2024, by Additional Sessions Judge, Newasa, Dist. Ahmednagar, stands suspended till the final hearing and disposal of Criminal Appeals.

iii] The applicants in both applications be released on bail on furnishing P.R.bond of Rs.20,000/-, with one or two sureties in the like amount. Bail before the trial Court.

iv] Criminal Applications are disposed of accordingly.

v] It is also clarified that the observations made in this order are limited only for the purpose of deciding the present Application.

vi] It is made clear that the applicants will report to the trial Court after six months and the applicants to take steps to conduct the appeals before this Court and in the event the applicants failed to conduct the appeals before this Court, the bail granted today will be cancelled.

[ARUN R. PEDNEKER]
JUDGE

DDC