

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

906 CRIMINAL APPLICATION NO.4493 OF 2025
IN
CRIMINAL APPEAL NO.517 OF 2025

Rajendra Eknath Kumkar

..Applicant

Versus

The State of Maharashtra and Another

..Respondents

.....

Shri. Sudarshan J. Salunke, Advocate for the Applicant

Shri. A. D. Wange, APP for Respondent – State.

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CORAM : NEERAJ P. DHOTE, J.

Dated : DECEMBER 18, 2025

PER COURT :-

1. Heard the learned Advocate for the Applicant – Appellant and the learned APP for the State. Perused the relevant evidence on record with their assistance.

2. By the present Application, the Applicant is praying for Suspension of his Sentence of Rigorous Imprisonment of 10 (ten) years and fine of Rs.50,000/- (Rupees Fifty Thousand only), in default to suffer Rigorous Imprisonment of 1 (one) year for the offence punishable under Section 304 Part II of the Indian Penal Code awarded by the learned Additional Sessions Judge-1, Jalna vide Judgment and order dated 25.07.2024 in Sessions Case No.156 of 2022.

3. It is the case of the Prosecution that, the Applicant – Appellant and the Deceased were Brothers. They were at loggerheads due to the

land dispute. On the date of the incident i.e. 26.04.2022 in the evening when the Deceased was burning stubble in his own agriculture land and the Appellant was burning stubble in his part of agriculture land, quarrel took place between them on account of *bandh* and the Applicant picked up the stone and threw it towards the Deceased. The Stone hit on the head of the Deceased which proved fatal. The Deceased succumbed to the injuries after a period of four days in the hospital. The incident was reported to the Police and the Crime bearing No.123/2022 came to be registered against the Applicant for the offence of Murder and abusing. After the Charge-sheet, the Applicant came to be tried and convicted as above.

4. Eye Witnesses to the incident are PW1 - Vishal Satyanarayan Kumkar who is the Son of the Deceased, and PW5 - Shivaji Vishwanath Petole who is the owner of the agricultural land near the spot of the incident. According to the Prosecution, PW5 was an independent witness. The evidence of PW5 indicate that, during the quarrel between the Deceased and the Applicant, the Deceased started pelting the stones on the cans and bend of the pipeline (these words are used in the evidence) and thereafter the Applicant picked up the Stone and threw it towards the angle of the bandh which hit the Deceased. This evidence of the independent witness show that, the Stone was not hurled by the Applicant so as to cause death. It hit the Deceased. This

indicate that, the Applicant is having *prima facie* good case on merits and possibility of scaling down the offence cannot be ruled out. The maximum sentence awarded to the Applicant by the learned Trial Court is 10 (ten) years imprisonment. The Applicant is behind the bars for a period around 3 ½ years. The Appeal is of 2025 and therefore, there is no possibility that the Appeal would be heard in the near future. In this view of the matter, I am inclined to pass the following order.

ORDER

- (i) The Application is allowed.
 - (ii) The substantive Sentence imposed by the learned Additional Sessions Judge-1, Jalna in Sessions Case No.156 of 2022 vide Judgment and Order dated 25.07.2024 on the Applicant, by name, Rajendra Eknath Kumkar, is suspended during pendency of the Appeal.
 - (iii) Applicant - Rajendra Eknath Kumkar be released on bail on furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety in the like amount.
 - (iv) Applicant shall co-operate in early disposal of the Appeal.
 - (v) Bail before the Trial Court.
5. Application stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)

GGP