



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.512 OF 2023 IN
CRIMINAL APPEAL NO.146 OF 2024

Dilip Sampat Bhalerao .Vs. State of Mah., through PSO, PS. Deulgaon Raja,
Buldhana and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.U. Bhuyar, Advocate for applicant.

Ms Shamsi Haider, A.P.P. for non-applicant No.1/State.

Shri A.S. Shukla, Advocate for non-applicant No.2.

CORAM : NITIN B. SURYAWANSHI AND
ABHAY J. MANTRI, JJ.

DATED : 03/01/2025

1. This is an application filed under Section 389 of the Code of Criminal Procedure, 1973, for suspension of sentence for life imprisonment.
2. Applicant is convicted by learned Additional Sessions Judge, Buldhana under Section 376(2)(j)(l) of the Indian Penal Code, in Sessions Trial No.54 of 2021 and is sentenced to suffer Rigorous Imprisonment for life.
3. Heard, Shri Bhuyar, learned advocate for applicant, Ms Haider, learned A.P.P. for non-applicant No.1/State and Shri Shukla, learned advocate for non-applicant No.2/victim.
4. Learned advocate for applicant submits that applicant was under trial prisoner and he is behind bars

since 2021. Further submission is that the victim is not examined in the trial and her mother PW-1, who claims to be eye witness to the incident, is examined. PW-2 has not supported the prosecution. The evidence of PW-1 Mother and PW-6 Medical Officer, is not reliable. Applicant/accused is falsely implicated in the case due to political rivalry and prosecution has failed to prove its case beyond reasonable doubt. The trial Court has failed to appreciate the evidence on record properly and has erred in convicting the applicant. Applicant is 60 years old. Considering his period of incarceration, the application may be allowed and applicant may be released on bail.

5. Ms Haider, learned A.P.P. for State and Shri Shukla, learned advocate for non-applicant No.2/victim strongly opposed the application submitting that victim is deaf, dumb and physically disabled. She was not in position to give evidence and hence her mother, who was eye witness to the incident, was examined and she has supported the prosecution case. Learned A.P.P. submits that there is sufficient evidence on record to sustain the conviction and the trial Court has passed well reasoned order. The application is devoid of merit and hence, the same is liable to be rejected.

6. Perused the application, grounds raised therein, appeal memo, notes of evidence and the impugned judgment and order of conviction.

7. *Prima facie*, there appears sufficient material on record to sustain the conviction, which is supported by sound reasons. Considering the material on record, no case is made out by the applicant to release him on bail during the pendency of the appeal. Hence, application is rejected. Hearing of appeal is expedited.

8. List the appeal as per its turn in jail appeals category, for final hearing.

(ABHAY J. MANTRI, J.)

(NITIN B. SURYAWANSHI, J.)