



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.376 OF 2025

IN

CRIMINAL APPEAL NO.208 OF 2025

(Suraj Dilip Boliwar Vs. State of Maharashtra)

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

Court's or Judge's Order

Mr. R.P. Joshi, Advocate for the appellant.
Mrs. M.A. Barabde, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- APRIL 22, 2025.

By this application, the appellant is seeking suspension of sentence and releasing him on bail.

2. The appellant was prosecuted of the offence punishable under Section 307 of IPC on an allegation that on 14/04/2021 when the informant was in the house and talking on the phone somebody pressed her neck by means of robe and thereby she caused the injuries. It is reported that accused was in relationship with her sister-in-law and the informant told her sister-in-law not to keep any relations with the accused, and therefore, the accused has attempted to commit her murder. After recording the evidence, the learned Sessions Judge had held the present applicant guilty of the offence punishable under Section 307 of the IPC and sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.25,000/- in default Simple imprisonment for six months. He is

further convicted of the offence punishable under Section 447 of the IPC and to undergo rigorous imprisonment for three months.

3. Being aggrieved and dissatisfied with the same, present appeal is preferred by the appellant. Learned Counsel for the applicant submitted on the basis of the evidence that the injuries sustained by the injured was simple in nature. He has also pointed out from the impugned judgment and the evidence that he has many arguable points in the present appeal. The appeal would take its own time for its final disposal. In the meantime, if sentence is executed the purpose of preferring the appeal would frustrate. He also invited my attention towards the evidence of injured PW-1 and evidence of Medical Officer Dr. Yogesh Prakash Ghate who has admitted during the cross-examination that the injuries sustained was not grievous. Thus, he submitted that the offence under Section 307 of the IPC itself is not made out.

4. Learned APP strongly opposed the application and submitted that the application itself is devoid of merits and liable to be rejected.

5. I have heard learned Counsel for both the parties and perused the evidence on record from which it reveals that the informant has specifically assigned the role to the present applicant. One eye-witness is also examined. The evidence is to be appreciated in the light of

the admission given by the Medical Officer. This is not the stage wherein the evidence is to be re-appreciated. At this stage, what is to be looked into is whether the appellant has made out a case to show that he has every chance of acquittal. Said aspect is also dealt by the Hon'ble Apex Court in the case of ***Omprakash Sahni Vs. Jai Shankar Chaudhary in Criminal Appeal No.1331-1332/2023 decided on 02/05/2023*** along with the connected appeals in para No.33 which is reproduced hereunder :

33. Bearing in mind the aforesaid principles of law, the endeavour on the part of the Court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the Trial Court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the above said question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually take very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the Court can arrive at a

prima facie satisfaction that the conviction may not be sustainable. The Appellate Court should not reappreciate the evidence at the stage of Section 389 of the CrPC and try to pick up few lacunas or loopholes here or there in the case of the prosecution. Such would not be a correct approach.

6. In view of the observation of the Hon'ble Apex Court, the appellant has made out a case for suspension of sentence. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order :

(i) The application is allowed.

(ii) The execution of the sentence vide order dated 27/03/2025 passed by the Additional Sessions Judge, Chandrapur in Sessions Case No.177/2021 is hereby suspended till final disposal of the appeal.

(iii) The appellant – Suraj Dilip Boliwar be released on bail on executing PR. Bond in the sum of Rs.25,000/- (Rs. Twenty Five thousand) with one surety, in the like amount.

(iv) The appellant shall attend the court of Additional Sessions Judge and District Judge-

1, Chandrapur on 5th day of every month, till disposal of the appeal.

7. The application stands disposed of.

CRIMINAL APPEAL NO.208 OF 2025

Heard.

2. **ADMIT.**

3. Learned APP waives notice for the State.

4. Call for R. & P.

5. Place the appeal before the Court after preparation of the paper book for final disposal.

(URMILA JOSHI-PHALKE, J.)

**Divya*