



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

CRIMINAL APPLICATION (APPA) NO.518 OF 2025
IN
CRIMINAL APPEAL NO.288 OF 2025

Aayush s/o Dilip Bagde

Vs.

State of Maharashtra, through Police Station Officer, Police Station Ajni,
Nagpur

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. S. Ali, Counsel along with Mr. S. S. Ulah, Counsel for the appellant.
Ms. Sneha Dhote, APP for non-applicant / State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/08/2025

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

2. The appellant was prosecuted along with the other co-accused under Sections 147, 148, 149, 324, 307 of the Indian Penal Code. After appreciation of the evidence, the appellant along with the other accused was held guilty of the offence punishable under Section 326 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment of six years and fine of Rs.10,000/-, in default to suffer simple imprisonment for four months. He is further convicted for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code and sentenced to

suffer rigorous imprisonment for six years and fine of Rs.10,000/- and in default, to suffer simple imprisonment for four months. He is also convicted for the offence punishable under Section 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for six years and fine of Rs.10,000/-, in default to suffer simple imprisonment for four months.

3. Heard learned Counsel for the appellant. He taken me through the entire evidence on record as well as the impugned judgment and submitted that considering the evidence of the prosecution witnesses, except the allegation by the PW-1 that the present appellant was present and assaulted. There is no other evidence brought on record showing that any overt act is attributed to the present appellant, therefore he is having chance of success in the present appeal, but the appeal would take its own time for its final disposal. In the meantime, if the sentence is executed, then the appeal would become infructuous.

4. Learned APP strongly opposed the said application and submitted that the appellant is prosecuted of the offence punishable under Sections 143, 147, 307 and 324 read with Section 149 of the Indian Penal Code, therefore his mere presence is also sufficient to show the involvement. The appeal

itself is devoid of merit and therefore, the application deserves to be rejected.

5. On hearing both sides and on perusal of the entire evidence which is brought on record. Admittedly, at this stage, reappreciation of the evidence is not permissible what is to be seen whether the appellant has any chance of success in the present appeal. Considering the evidence on record which is pointed out by the learned Counsel for the appellant and the impugned judgment he has made out a case to show that he has chance of success in the present appeal, but the appeal would take its own time for final disposal. Moreover, the punishment is of a limited period in view of that the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The execution of sentence passed in Sessions Case No.395/2022 is hereby suspended till disposal of the appeal.
- (iii) The appellant shall be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

The criminal application is disposed of.

(4)

952.appa.518.2025

Criminal Appeal No.288/2025

Appeal be listed for final hearing after preparation of paper book.

(URMILA JOSHI-PHALKE, J.)

Sarkate