



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

CRIMINAL APPLICATION (APPA) NO. 752 OF 2025

IN

CRIMINAL APPEAL NO. 430 OF 2025

Hasmukh @ Mohd. Imdadul Mohd. Faijuddin Lashkar Vs. State of Maharashtra, thr. PSO,
PS Chikhli, Dist. Buldana

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

Court's or Judge's orders.

Mr. S.M. Khan, Advocate for the Applicant/Appellant.
Mr. K.R. Lule, APP for the Respondent/State.

CORAM : ANIL L. PANSARE AND RAJ D. WAKODE, JJ.
DATE : 6th NOVEMBER, 2025.

Heard both sides.

2. The applicant is seeking to suspend the sentence imposed by the learned Sessions Judge, Buldhana, in Sessions Case No.86/2022, whereby the applicant, along with one more, has been convicted for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860.

3. The counsel for the applicant has invited our attention to the order dated 18th December, 2024, passed by Co-ordinate Bench of this Court in an application filed by the co-accused in Criminal Application (APPA) No.685/2024 in Criminal Appeal No.387/2024. The Court found that the co-accused did not play an active role and the fatal assault was attributed to present applicant. The evidence indicates that the applicant had assaulted the deceased on head by means of iron rod. The said injury was the cause of death of the deceased. Thus, the main role is assigned to the applicant.

4. The argument is that the incident occurred at the spur of the moment, which fact has been noted by the Co-ordinate Bench in the application filed by the co-accused. The counsel for the applicant further submits that deceased himself had provoked the applicant and, therefore, the offence would, at the most, fall under Part-II of Section 304 of the IPC.

5. Even if the aforesaid submission is to be accepted, the punishment for the said offence is up to ten years. The applicant has undergone imprisonment for three years. *Prima facie*, he appears to be responsible for the death. Whether the act would amount to culpable homicide amounting to murder or would attract the ingredients of Section 304 Part-II of the IPC will be considered at the time of hearing the appeal on merits. At present, considering the evidence against the applicant, we are not inclined to suspend the sentence. The application is, accordingly, rejected.

6. We are informed that the paper book is already prepared in the connected appeal i.e. Criminal Appeal No.387/2024. The Registry shall process the present appeal as also Criminal Appeal No.387/2024 for final hearing.

7. List in due course.

(RAJ. D. WAKODE, J.)

(ANIL L. PANSARE, J.)