



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

CRIMINAL APPLICATION (APPA) NO. 1008 OF 2024

IN

CRIMINAL APPEAL NO. 17 OF 2019

(SHANKAR VITHOBA DHENGARE...VS..STATE OF MAH. THR. PSO ARMORI PS, DIST. GADCHIROLI)

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

Court's or Judge's orders

Shri Ravi R. Gour, Advocate for Applicant
Shri Sagar Ashirgade, A.P.P. for Respondent/State.

CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.

DATED : APRIL 29, 2025.

1. Heard.
2. This is an application for suspension of sentence and for grant of bail. The applicant has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to suffer R.I. for life and to pay a fine of Rupees Five Hundred in default of payment of fine he shall suffer rigorous imprisonment for three months. In this matter, co-accused Dadaji Nimbaji Gajbhiye has been acquitted.
3. The prosecution story, in nutshell, is that on 26/07/2015 at Kasavi forest area when the applicant alongwith informant-Abdul Kadir Abdul Sattar Sheikh (P.W.1), co-accused Dadaji Gajbhiye and Vishnu Sahu were sitting on Railway Station, Desaiganj, a beggar was listening songs on the mobile handset of co-accused

Dadaji Gajbhiye, the applicant snatched rupees seven from another beggar. On being asked, why the applicant snatched the money, the applicant beaten him. Then all of them went to Navegaon Bandh. After consuming liquor when they were returning by train, the deceased Madhu met them at Wadegaon Railway Station. The applicant took him in the train and on return of the mobile handset, the applicant started quarreling with him.

4. Thereafter, The applicant took deceased Madhu, co-accused Dadaji and the informant- Abdul Kadir to his home. He took one steel rod. Thereafter they went inside the forest from Kasavi Phata. Thereafter, both the accused asked deceased about the mobile handset and on his denial the applicant hit him with the steel rod on his leg. When the informant tried to intervene, the applicant also beaten him. Again both the accused started beating the deceased, so he fell down. Therefore, the first informant flee away.

5. It is further case of the prosecution that thereafter both the accused came near Kasavi Phata and took him to village Kondhala. He administered him the liquor. Thereafter, again they returned to Wadsa. The first informant told the incident to policeman Faiyyaj. He took him to Wadsa Police Station. He told the incident to Police Station, Wadsa. Wadsa police took him on the spot, that time deceased Madhukar Shende was lying seriously injured. He was moaning. He had injury to his

both legs, hands and blood was oozing. The deceased was taken to Armori Hospital where the Doctor declared him dead.

6. The prosecution in support of its story examined an eyewitness to the incident viz. Abdul Kadir Abdul Sattar (PW-1). P.W.1 in his ocular evidence stated complete story which could not be shattered by the defence in the cross-examination. Thus, considering the fact that there is a direct evidence by way of an eyewitness to the incident i.e. P.W. 1 and as the applicant was throughout in the jail, we are of the opinion that this is not a fit case to suspend the sentence.

Accordingly, the application is **rejected**. However, hearing of the appeal is expedited.

(PRAVIN S.PATIL,J)

(ANIL S.KILOR,J)

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