



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

CRIMINAL APPLICATION NO.129 OF 2025

IN

CRIMINAL APPEAL NO.70 OF 2025

Pradip @ Dhai Pralhad Ghangale

Vs.

State of Maharashtra

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.S. Das, Advocate for the applicant.

Mr. S.A. Ashirgade, APP for Respondent Sole.

CORAM: ANIL L. PANSARE AND
SIDDHESHWAR S. THOMBRE, JJ.

DATED : 18th SEPTEMBER, 2025

1. Heard Mr. S.S. Das, learned Counsel for the applicant/appellant, and Mr. S.A. Ashirgade, learned A.P.P. for the respondent/non-applicant.

2. The applicant/appellant has been convicted for the offence punishable under Section 302 of Indian Penal Code, 1860 (for short, "IPC"). He has been sentenced to suffer life imprisonment and to pay fine of Rs.10,000/- for the offence punishable under Section 302 of the IPC, awarded by the Learned Additional Sessions Judge, Nagpur in Sessions Case No.06/2020 dated 24.07.2024.

3. The applicant submits that the Trial Court has committed apparent error on the face of the record in convicting the applicant/appellant. He further submits

that the learned Trial Court has not considered the evidence led by the prosecution in its proper perspective and the prosecution failed to give all the case papers and drew wrong conclusion.

4. Per contra, learned APP submitted that the prosecution has led the evidence to convict the applicant/appellant under Section 302 of IPC, and after recording the entire evidence of the prosecution, the learned Trial Court came to the conclusion which is perfectly legal.

5. We have considered the statement of PW-2, Indubai Pralhad Ghangde, who is the mother of the applicant/appellant. She has stated in her deposition that, on the day of incident, her husband returned from Talni Nimbhora after funeral of his maternal uncle in a drunken condition. At that time, the applicant/appellant was at home. Her husband, under the influence of liquor, started abusing to the applicant/appellant and other persons coming and going on the road. When the applicant/appellant inquired that as to why he is abusing him and other persons in filthy language, the applicant/appellant got angry and assaulted her husband on his head with wooden log, and because of that, the deceased fell down and sustained bleeding injury on his head and succumbed to the injuries.

6. In cross-examination, however, PW-2 admitted that the villagers were fed-up with the bad behavior of her husband and, because of that, the passer-by on road assaulted her husband with a stone and, due to which he

fell down and died. At the time of incident, she was inside her house and she didn't see the actual incident.

7. Thus, in the cross-examination, PW-2 has specifically stated that she did not witness the incident, and when the incident occurred, she was inside her house, and that it was the passers by on road, who had assaulted her husband and therefore, it is clear that she has not witnessed the incident.

8. We have considered the evidence of other witnesses also, and even they have stated that they heard about the incident that accused has killed his father. However, none of the witnesses have stated that they have seen the accused assaulting the deceased.

9. We have also considered the deposition of PW-4 Jayashri Dhiraj Patil, who is real sister of appellant. She was also in the house at that time, and from the neighbors, she heard that somebody had assaulted her father and therefore, considering the totality of the evidence led by the prosecution, we find that there is no any direct evidence to connect the present appellant with the said crime.

10. The Trial Court has observed that though the PW-2 admitted in her evidence that her husband died due to stone hitting by the passers by, none of the prosecution witnesses stated this fact.

11. Such a shifting of burden of proof is not permissible. We have accordingly, considered the submissions made by both the sides and have also gone

through the order passed by the Learned Trial Court. Considering the overall evidence of the prosecution and after going through the record, *prima-facie*, we find substance in the argument advanced by the learned Counsel for the applicant, that a case is made out for suspension of sentence. The applicant is in jail since, 21st September, 2019, and it will take time to decide the appeal finally. Hence, we pass the following order :-

ORDER

- (i) The application is allowed.
- (ii) The sentence of conviction passed by the Learned Additional Sessions Judge, Nagpur in Sessions Case No.06/2020, convicting the appellant for the offence punishable under Section 302 of Indian Penal Code, 1860, stands suspended.
- (iii) The appellant – Pradip @ Dhair S/o Pralhad Ghangale, be released on bail on furnishing Personal Recognizance bond in the sum of Rs.50,000/-, with one or two sureties in the like amount.
- (iv) The applicant shall not indulge in any illegal activities. The applicant shall attend the jurisdictional police station, viz., Police Station – Pulgaon, Tahsil Deoli, District – Wardha, on first Monday of every month between 11:00 am to 1:00 pm. The applicant shall appear before the Court as and when directed. The applicant shall monitor progress of appeal and shall appear before the Court on the date of final hearing of appeal.

(v) The learned A.P.P. or the Investigating Officer is at liberty to seek cancellation of bail, if any of the conditions is breached or for any other sufficient reason.

(vi) The application is **disposed of** in terms of above.

(Siddheshwar S. Thombre J.)

(Anil L. Pansare J.)

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