

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

CRIMINAL APPLICATION (APPA) NO. 500/2025

IN

CRIMINAL APPEAL NO. 280/2025

**Kamlesh s/o Dipak Kudmethe Vs. State of Maharashtra, Through
Police Station Officer, P.S. Wardha and another**

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. Amol Jaltare, Advocate for Appellant
 Mr. S.S. Hulke, APP for Respondent No.1
 Mr. Shyam R. Jaiswal, Advocate for Respondent No.2

CORAM: NIVEDITA P. MEHTA, J.

DATED : 24th SEPTEMBER, 2025

1. The present application is filed by the applicant/appellant seeking suspension of sentence and release on bail, pending the final disposal of the appeal. The applicant has challenged the judgment and order dated 31.12.2024, passed by the learned Sessions Court, whereby the applicant/accused was convicted for the offence punishable under Section 304 Part II of the Indian Penal Code and sentenced to undergo rigorous imprisonment for seven (07) years and to pay fine of Rs.50,000/-, in default of which to suffer further rigorous imprisonment for one (01) year.

2. Learned counsel for the applicant submits that the conviction arises from an incident witnessed by the daughter of the deceased. As per her testimony,

the deceased was shouting and the applicant tried to pacify him. It is stated that the applicant allegedly assaulted the deceased with fists and kicks and pushed him, causing him to fall and sustain head injuries. The deceased was admitted to the hospital on 26.03.2022 and succumbed to the injuries on 08.04.2022. The medical certificate indicates the cause of death as: *“Ventilator-associated pneumonia with sepsis as a result of polytrauma with subdural hemorrhage, subarachnoid hemorrhage, and intraventricular hemorrhage.”* It is the contention of the applicant that the incident was not premeditated and occurred in the heat of the moment. It is further submitted that the applicant was in judicial custody from 30.03.2022 to 22.11.2023 and post-conviction from 31.12.2024 till date. During the trial, the applicant was on bail and has not misused the liberty granted to him.

3. Per contra, the learned Additional Public Prosecutor strongly opposes the application. He submits that a perusal of the judgment and the evidence of the eye-witnesses reveals that the applicant had brutally assaulted the deceased, resulting in a skull fracture and other serious injuries. It is further submitted that the applicant resides in the same locality as the witnesses, and there exists a possibility of tampering with the prosecution evidence or influencing the witnesses.

4. Upon consideration of the submissions made, the nature of the offence, period of incarceration, and the fact that the appeal is not likely to be heard in the immediate future, this Court is of the opinion that the applicant has made out a case for suspension of sentence.

(i) The application is allowed. The sentence imposed upon the applicant by the learned Sessions Court in Judgment and Order dated 31.12.2024 is hereby suspended during the pendency of the appeal.

(ii) The applicant shall be released on bail on furnishing a solvent surety in the sum of ₹50,000/- (Rupees Fifty Thousand only) and a Personal Bond of like amount to the satisfaction of the trial Court.

(iii) The applicant shall not enter the locality known as *Virangana Rani Durgavati Nagar, Gound Mohalla, Wardha*, during the pendency of the appeal.

(iv) The applicant shall report before the learned trial Court on the first Friday of every month.

(v) The applicant shall furnish his present residential address and contact number to the trial Court, and shall inform the Court promptly in case of any change.

(vi) In the event the applicant misuses the liberty so granted or attempts to influence the prosecution witnesses, the State shall be at liberty to move for cancellation of bail.

6. The fees payable to the learned counsel appointed to represent respondent No.2 be quantified and disbursed in accordance with the applicable rules.

(NIVEDITA P. MEHTA, J.)

MP Deshpande