



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

CRIMINAL APPLICATION (APPA) NO. 753/2025

IN

CRIMINAL APPEAL NO. 432/2025

Chandan @ Chandya Bhimrao Bhoyar

Vs.

State of Maharashtra, Through P.S.O., Wardha (City)

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

Court's or Judge's orders

Mr. Mahesh Rai, Advocate for Applicant / appellant
Mr. S.S. Hulke, APP for Respondent

CORAM: NIVEDITA P. MEHTA, J.

DATED : 3rd NOVEMBER, 2025

1. The applicant has filed the present appeal before this Court and assailed the judgment and order dated 18.10.2023 passed in Sessions Case No. 60/2020 passed by the learned Additional Sessions Judge, Wardha.

2. The applicant stands convicted for the following offences:

Section 307 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 10 years and fine of ₹5,000/-, in default to suffer R.I. for 1 year;

Section 452 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 2 years and fine of ₹1,000/-, in default to suffer R.I. for 4 months;

Section 324 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 2 years and fine of ₹1,000/-, in default to suffer R.I. for 3 months;

Section 323 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 1 year and fine of ₹1,000/-, in default to suffer R.I. for 3 months;

Section 504 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 1 year and fine of ₹1,000/-, in default to suffer R.I. for 3 months;

Section 506 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 1 year and fine of ₹1,000/-, in default to suffer R.I. for 3 months;

3. The learned counsel for the applicant submits that the incident in question occurred due to a sudden quarrel between the applicant and one Vikrant Wasnik. During the said altercation, the mother of Bapya (Vikrant) Wasnik allegedly remarked to the accused, questioning what he had done to the victim, namely Rahul Ingole, who was allegedly having an affair with the wife of the applicant. According to learned counsel, this statement acted as provocation, which led the applicant to attack Rahul Ingole. It is submitted that the act was neither premeditated nor preplanned.

4. The learned counsel further submits that the applicant was on bail throughout the trial and has not misused the liberty granted to him. He has taken this

Court through the evidence of the prosecution witnesses, including the eye-witness Rajesh Damhare, who has deposed that the quarrel initially took place between him and Bapya Wasnik, with the victim being on his side. During the said incident, the mother of the applicant allegedly told them not to harass her son and added that if anyone were to be dealt with, it should be the victim Rahul Ingole. Based on this, learned counsel contends that there are material discrepancies in the prosecution evidence and that the incident was a result of sudden provocation rather than a planned assault.

5. Per contra, learned Additional Public Prosecutor submits that the trial Court, upon considering the evidence of prosecution witnesses, has rightly concluded that the act of the appellant was premeditated and not a result of sudden provocation. It is pointed out that the applicant used a knife to attack the victim, thereby causing grievous injuries. As per the medical evidence of PW-9 (Doctor), the injuries were serious in nature and the victim was hospitalized from 11.07.2025 to 25.07.2025. It is therefore contended that the applicant is not entitled to suspension of sentence.

6. On due consideration of the submissions advanced by both sides, the nature of the offence, the gravity of the allegations, and the sentence imposed, this Court also notes that the applicant was on bail throughout the trial and did not misuse his liberty.

7. Further, while considering the parameters laid down by the Hon'ble Supreme Court in ***Jamnala v. State of Rajasthan & Anr.***, SLP (Crl.) No. 69 of 2025, wherein the Apex Court reiterated the principles enunciated in *Omprakash Sahni v. Jai Shankar Chaudhary and Another*, regarding the scope of Section 389 of the Cr.P.C., it has been observed that:

*“10. One would expected the High Court hearing an application under Section 389 of Cr.P.C. for suspension of sentence to examine prima facie there was anything palpable on the record to indicate if the accused had a fair chance of overturning the conviction in **Omprakash Sahni v. Jai Shankar Chaudhary and Another**, this Court had the following to say on the scope of Section 389 of the Cr.P.C.*

“23. The principle underlying the theory of criminal jurisprudence in our country is that an accused is presumed to be innocent till he is held guilty by a Court of competent jurisdiction. Once the accused is held guilty, the presumption of innocence gets erased. In the same manner, if the accused is acquitted, then the presumption of innocence gets further fortified.

24. From perusal of Section 389 CrPC, it is evident that save and except the matter falling under the category of sub-section (3) neither any specific principle of law is laid down nor any criteria has been fixed for consideration of the prayer of the convict and further, having a judgment of conviction erasing the presumption leaning in favour of the accused regarding innocence till contrary recorded by the Court of competent jurisdiction, and in the aforesaid background, there happens to be a fine distinction between the prayer for bail at the pre-conviction as well as the post-

conviction stage viz. Sections 437, 438, 439 and 389(1) CrPC.

33. Bearing in mind the aforesaid principles of law, the endeavour on the part of the Court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the trial Court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the abovesaid question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually takes very long for decision and disposal. However while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The appellate court should not reappreciate the evidence at the stage of Section 389 CrPC and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach.”

8. Taking into consideration the above facts and the legal parameters as laid down by the Hon'ble Supreme court, the Court is of the opinion that the case of suspension of sentence is made out. Accordingly, the application is allowed. The substantive sentence imposed by the learned trial Court vide judgment and order dated 18.10.2023 passed in Sessions Case No. 60/2020 passed

by the learned Additional Sessions Judge, Wardha is suspended on the following terms and conditions.

I. The applicant / appellant shall be released on bail on furnishing PR bond of Rs.25,000/- with solvent surety in the like amount before the trial Court.

II. The applicant shall report before the concerned trial Court on the first day of every calender month until further orders.

III. The applicant shall furnish his current residential address and mobile number to the concerned Sessions Court and shall inform the Court about change of address or contact number forthwith.

The application shall stand disposed off.

CRIMINAL APPEAL ST. NO. 6903/2025

Heard.

ADMIT.

Issue notice to the respondent.

The learned APP waives service of notice.

Call for R & P.

(NIVEDITA P. MEHTA, J.)