



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

**CRIMINAL APPLICATION (APPA) NO. 758/2025**

**IN**

**CRIMINAL APPEAL NO. 435/2025**

**Nikhil S/o Sunil Tembhurne Vs. The State of Maharashtra, Through  
Police Station Officer, Police Station Ajni, Nagpur**

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| Office Notes, Office Memoranda<br>of Coram, Appearances, Court's<br>orders or directions and<br>Registrar's orders | Court's or Judge's orders |
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Mr. C.R. Thakur, Advocate for applicant  
Mr. A.R. Chutke, APP for Respondent

**CORAM: NIVEDITA P. MEHTA, J.**

**DATED : 24<sup>th</sup> SEPTEMBER, 2025**

1. By this application, the applicant is seeking suspension of sentence and releasing him on bail.
2. The applicant was prosecuted along with the other co-accused under Sections 147, 148, 149, 324, 307 of the Indian Penal Code. After appreciation of the evidence, the applicant along with the other accused was held guilty of the offence punishable under Section 326 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment of six years and fine of Rs.10,000/-, in default to suffer simple imprisonment for four months. He is further convicted for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for six years and fine of Rs.10,000/- and in default, to suffer simple

imprisonment for four months. He is also convicted for the offence punishable under Section 120-B of the Indian Penal Code and sentenced to suffer rigorous imprisonment for six years and fine of Rs.10,000/-, in default to suffer simple imprisonment for four months.

3. Heard learned counsel for the applicant and learned APP. The learned counsel for the applicant has taken me through the entire evidence on record. Considering the evidence of the prosecution witnesses, except the allegation that the present applicant was holding hand of the injured and facilitating the main accused to assault. However, it is stated by the learned counsel for the applicant that the applicant has threatened the sister and mother of the victim by the knife. There are material omissions and contradictions in the evidence of the eye witnesses, who are father, mother and sister of the injured and therefore, the applicant has every chance of succeeding in the appeal. Moreover, the applicant is on bail.

4. The learned Additional Public Prosecutor has strongly opposed the said application and submitted that the applicant is prosecuted for the offences punishable under Sections 307, 326, 120-B r/w 34 of the Indian Penal Code, therefore, his mere presence is also sufficient to show the involvement. The appeal itself is devoid of merit and therefore, the application deserves to be rejected.

5. On hearing both the sides and on perusal of the entire evidence which is brought on record. Admittedly, at this stage, reappreciation of the evidence is not permissible what is to be seen whether the applicant has any chance of success in the present appeal. Considering the evidence on record which is pointed out by the learned counsel for the applicant and the impugned judgment he has made out a case to show that he has chance of success in the present appeal, but the appeal would take its own time for final disposal. Moreover, the punishment is of a limited period in view of that the application deserves to be allowed. Accordingly, I proceed to pass following order :

### **ORDER**

- I. The application is allowed.
- II. The execution of sentence passed in Sessions Case no. 395/2022 is hereby suspended till disposal of the appeal.
- III. The applicant shall be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- IV. The applicant shall report before the concerned trial Court on the first Monday of the month.

The criminal application is disposed off.

**(NIVEDITA P. MEHTA, J.)**