



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

CRIMINAL APPLICATION (APPA) NO. 921 OF 2025

IN

CRIMINAL APPEAL NO. 416 OF 2023

Mohammed Danish Jahid Husain

Vs.

The State of Maharashtra, through PSO, PS Shegaon, Dist. Buldhana

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

Court's or Judge's orders.

Mr. Tabish Mooman, Advocate with Mr. M.R. Pande, Advocate for the
Applicant/Appellant.

Mr. A.B. Badar, APP for the Respondent/State.

CORAM : ANIL L. PANSARE AND RAJ D. WAKODE, JJ.

DATE : 12th NOVEMBER, 2025.

The application has been filed to suspend the sentence of life imprisonment imposed by the Sessions Court, Khamgaon, Dist. Buldhana, *vide* judgment and order dated 18th May, 2023 in Sessions Case No.39/2018.

2. With the assistance of both the sides, we have gone through the relevant documents. The star witness is PW-3. He runs a tea centre where the incident occurred. The deceased had been to his tea centre. He was having tea. At that time, three persons came in. One of them i.e. the appellant snatched his mobile, caught hold of his collar, and asked him to come out. He slapped him. The appellant then took out knife and assaulted the deceased, who succumbed to the injuries.

3. The post-mortem report and the testimony of the doctor who conducted it (PW-9) show that there were as many

as nineteen injuries on the person of the deceased. All the injuries were ante-mortem. The examination of internal injuries indicates fracture of 3rd rib right side due to stab injury, and rupture of right side of lung. The cause of death is haemorrhagic shock due to carotid vessel rupture due to multiple injury to neck region.

4. Thus, it appears that the deceased was mercilessly beaten by the appellant. The weapon used is knife. The evidence of PW-3 indicates that the appellant and two others came at tea centre with premeditation.

5. The counsel for the appellant submits that the deceased had instigated the appellant to commit a crime, and therefore, it is not a cold-blooded murder. The deceased had a bad eye on the appellant's sister, which resulted into quarrel between the two.

6. Thus, it appears that the appellant was annoyed with the conduct of the deceased. As such, the annoyance is justified, the question, however, is whether such annoyance will permit appellant to take the law in his hand. The answer is certainly in the negative.

7. Learned APP, on the point of suspension of sentence, has relied upon the judgment of the Hon'ble Supreme Court in the case of *Omprakash Sahni Vs. Jai Shankar Chaudhary and Anr. [2023 SCC OnLine SC 551]*, wherein, the Court, after taking note of the settled principles of law, held thus:

“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 above said 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 take 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 of the CrPC and try to pick up few lacunas or loopholes here or there in the case of the prosecution. Such would not be a correct approach.”

8. Thus, the Court is under an obligation to see 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 a fair chance of acquittal. If the answer is in the affirmative, the sentence should be suspended.

9. In the present case, for the reasons stated above, we do not find that there are fair chances of acquittal, rather the evidence indicates otherwise.

10. That being so, there is no merit in the application. The same is accordingly rejected.

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11. We are informed that the appellant is in jail since 12th May, 2018. The paper book is ready. We are, therefore, inclined to hear the appeal finally.

12. List the appeal for final hearing in the week commencing from 1st December, 2025.

(RAJ. D. WAKODE, J.)

(ANIL L. PANSARE, J.)

Vijaykumar