IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2548 OF 2026
IN
CRIMINAL APPEAL NO.512 OF 2026

Mahendra Madhavrao Deore
Age : 29 years, Occ : Labour,
R/o Laxminagar, Mukti,
Tq. & Dist. Dhule.

...APPELLANT

~VERSUS~

The State of Maharashtra
.

...RESPONDENT

- Mr. Chetan Choudhari, Advocate for applicant
- Mr. A.S. Shinde, APP for the respondent/State

CORAM : SANDIPKUMAR C. MORE &
VAISHALI PATIL-JADHAV, JJ

DATED : OCTOBER 26, 2026

ORDER : [Per Vaishali Patil-Jadhav, J.]

. This is an application for suspension of sentence of rigorous imprisonment for life and payment of fine of Rs.2,000/- for the offence punishable under Section 302 and Section 34 of the Indian Penal Code, 1860 (for short, "IPC") and one year rigorous imprisonment for the offence punishable under Section 324 read with 34 of the IPC

imposed by the Additional Sessions Judge (Court No.6), Dhule in Sessions Case No.87/2018, vide judgment and order dated 30.05.2026, thereby convicting the applicant for the offences punishable under Sections 302, 324 read with Section 34 of the IPC.

2. The prosecution case, as reflected from the report lodged by the injured informant Dagadu Pundlik Marathe i.e. PW-1 is that, on 27.04.2018 when the informant and deceased Devidas Pawar were going to the field at about 9.30 p.m., accused no.1 Piyu Popat Davalse (Bhil) and accused no.2 Raju Paulad More (Bhil) came to them and asked for money for liquor. As the informant and deceased refused to give money as they had no money, the accused persons abused them. Thereafter, accused no.1 - Piyu called present applicant - Mahendra Deore by making a phone call. The applicant immediately came there by motorcycle and all of them started threatening and abusing the informant and deceased. The informant and deceased Devidas released themselves from the clutches of the accused and went to the filed. After having dinner in the field, the informant and deceased slept in the field. At about

11 p.m., someone gave a blow of wooden rod on the nose of informant. When he woke up and switched on the torch, he saw that accused no.1 was having an axe in his hand. At that time, the present applicant gave blow of stick on the mouth of the informant. To resist the accused persons, the informant gave a blow of torch on the head of accused no.1 - Piyu. Thereafter, Piyu gave an axe blow on the head and neck of deceased Devidas, who was sleeping at that time, which resulted into his death. The informant along with other villagers went to the Police Station and lodged F.I.R.

3. It is submitted by learned counsel for the applicant that the fatal injuries resulting in the death of deceased Devidas were caused by accused no.1 Piyu by means of an axe. He submitted that role attributed to the present applicant by PW-1 informant is only that the applicant gave blow to the informant by means of Bamboo stick. He further submitted that the applicant was arrested on 28.04.2018 and was released on 03.10.2018. Hence, during the trial, the applicant was on bail and as such prayed that the substantive sentence imposed upon the applicant be suspended during the pendency of the Appeal.

4. The application is opposed by the learned APP by submitting that the prosecution has proved the common intention of the present applicant and other co-accused in committing the murder of deceased Devidas. He ultimately urged for rejection of the application.

5. Heard the learned counsel for the applicant and learned APP for the respondent-State. We have perused the judgment and order passed by the trial Court and the evidence on record.

6. From the evidence on record, it is evident that accused no.1 - Piyu caused the death of Devidas by assaulting him with an axe on the head and neck. From the evidence of the informant, who is also injured witness i.e. PW-1, it is seen that the present applicant gave a blow of stick upon the mouth of the informant. Apart from this, no overt act of assault was attributed to the present applicant. Though the trial Court has convicted the present applicant under Section 302 read with Section 34 of the IPC, this will need further consideration, as to whether,

mere blow of stick upon the mouth of the informant will come within the scope of Section 34 of the IPC when no overt act is attributed to the present applicant regarding the assault on deceased Devidas. Role of the present applicant can be appreciated at the time of hearing of the appeal. The judgment of the Sessions Court is dated 30.05.2026. The hearing of the appeal may take time and is not likely to be heard in the near future. Otherwise also, the applicant was on bail during the trial.

7. Considering these aspects, the application needs to be allowed. Hence, we pass the following order :-

ORDER :-

(i) The application is allowed.

(ii) The substantive sentence of rigorous imprisonment imposed upon the applicant/accused for the offences punishable under Sections 302 and 324 read with Section 34 of the Indian Penal Code, in Sessions Case No. 87 of 2018 under judgment and order dated 30.05.2026 passed by the learned Additional Sessions Judge, (Court No.6),

Dhule is hereby suspended during the pendency of Criminal Appeal.

(iii) The applicant be released on bail on execution of P.R. bond of Rs.25,000/- with one surety in the like amount, if not required in any other case.

(iv) Criminal Application stands disposed of accordingly.

[VAISHALI PATIL-JADHAV]
JUDGE

[SANDIPKUMAR C. MORE]
JUDGE

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