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916criapl661.26

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

**916 CRIMINAL APPLICATION NO. 661 OF 2026
IN APPEAL/122/2026**

CHANDRASHEKAR NAMDEV SAPKALE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA

.....Respondent

Mrs. Sunayana, N. Patil, Advocate h/f Mr. P. B. Patil, Advocate for the applicant

Mr. U. S. Bhosale, APP for the respondents/State

CORAM : RAJNISH R. VYAS, J.

DATE : 11th MARCH, 2026

PER COURT :

1. Heard the learned advocate for the applicant and learned APP.

2. The application is preferred for grant of bail and suspension of sentence by the original accused who was convicted by the Additional Sessions Judge, Amalner, Dist. Jalgaon dated 11-02-2026 in Sessions Case No. 13 of 2022. The conviction is under Section 299(3) punishable under Section 304 Part-II of the Indian Penal Code and sentence imposed upon him is of 10 years and fine of Rs.5000/-. Default sentence was also imposed.

3. Learned advocate for the applicant submitted that all through out the trial the applicant was on bail and he did not misuse the liberty. She contended that the applicant has no criminal antecedent and the manner in which the incident had taken place would clearly show that question still is required to be answered whether the applicant can be convicted under Section 304 Part-II of the IPC. She submitted that there is every likelihood that the facts narrated will constitute the offence under Section 323 or 324 of the IPC.

4. The learned APP contended that the act committed by the applicant was rightly made out from the testimony of witness and thereafter the provision of Section 304 Part-II was made applicable. She submitted that there is nothing on record to show any perversity was committed by the trial court.

5. With the help of respective counsels, I have gone through the record of the case. It is the case of the prosecution that on 14-10-2021 at about 07.00 o'clock the deceased had quarreled with his wife. The accused questioned the deceased as to why he is abusing him as he thought that he was abused by the accused. Thereafter altercation took place and the accused took out the shingade from the bullock cart and assaulted the deceased on stomach, neck and back of the accused. The incident had taken place on 14-10-2021 whereas

the accused has died on 18-10-2021. It is further necessary to mention here that weapon of offence was subjected to discovery under Section 27 of the Evidence Act. The present applicant was arrested by the police authority on 18-10-2021 on which date, according to the prosecution, the weapon of offence shingade ('Y' shaped wooden instrument) was produced by taking recourse of Section 27 of the Evidence Act. It is further pertinent to note here that it is submitted by the PW-3 i.e. wife of the deceased in cross-examination that on the day of incident when quarrel was going on deceased was under the influence of liquor.

6. If the testimony of PW-8 Doctor who had conducted the postmortem report of the dead body is seen, he has submitted that cause of death was septicaemic shock in an operative case of intestinal perforation. He further stated that after internal and external examination of the dead body the internal complications of therapeutic injury No. 1 mentioned in column 17 can be sufficient to cause the death. In cross-examination he has admitted that injuries No. 3 and 4 mentioned in the column No. 7 can be caused if someone falls after consumption of liquor or falls suddenly. It is pertinent to note here that whether the conviction should not have been awarded under Section 304 Part-II or could have been awarded under Sections 324 or 325 will have to be looked into by considering the various

aspects including the reasons for acquittal, the body part chosen, the weapon used and nature of weapon.

7. At this juncture, it is necessary to mention here that said argument can be dealt with at the time of final hearing. Suffice it to say that arguable points are made out in the appeal.

8. Considering the aforesaid fact that the applicant was on bail all through out the trial and did not misuse the liberty and there is every likelihood that the appeal will not be decided in near future, I am inclined to pass the following order:

ORDER

- a] The application is allowed.
- b] The sentence imposed upon the applicant by Additional Sessions Judge, Amalner, Dist. Jalgaon dated 11-02-2026 in Sessions Case No. 13 of 2022 for commission of offences punishable under Sections 299(3) punishable under Section 304 Part-II of the IPC is here by suspended till the decision on the appeal.
- c] The applicant shall be released on same terms and conditions as were imposed by the trial court.

[RAJNISH R. VYAS, J.]