



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1753 OF 2026

IN

CRIMINAL APPEAL NO. 322 OF 2026

Raju Ashok Raut

Age 35 years, Occupation Waiter,

R/o. Borgaon, Taluka Sillod,

District Aurangabad.

... Applicant

Versus

The State of Maharashtra

... Respondent

.....

Mr. Satej S. Jadhav, Advocate for the Applicant.

Mr. B. B. Bhise, APP for the Respondent-State.

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 04.05.2026

Pronounced on : 06.05.2026

ORDER :

1. Instant application is for suspension of sentence and grant of bail in consequence to the judgment and order of conviction dated 13.04.2026 rendered by learned Additional Sessions Judge, Gangapur, District Chh.Sambhajinagar in Sessions Case No. 205 of 2025.

2. Learned counsel for the applicant pointed out that, applicant was arraigned as accused no.4 in above Sessions Case No. 205 of 2025. He further pointed out that, as far as present applicant is concerned, he is only held guilty for offence under Section 201 r/w 34 of IPC. He also pointed out that, case is based on circumstantial evidence. He further pointed out that, applicant is acquitted from rest of the charges like Sections 302 r/w 34, 120B and other penal Sections. That, applicant is a waiter working in the hotel owned by main accused. He further pointed out that, said main accused is alone held guilty for offence under Section 302 IPC for committing murder of deceased by fire arms.

3. He further submitted that, as regards to present applicant is concerned, there are allegations that after the alleged murder by accused no.1, applicant had used sharp weapon like knife for tearing clothes on the dead body, and had allegedly tried to behead the dead body for disposing it off. Thus, according to prosecution, charge under Section 201 IPC was framed.

4. Learned counsel submitted that, implication of applicant is only on the strength of his statement under Section 27 of the Indian Evidence Act recorded on 23.01.2016. However, prior to it, there was

disclosure and recovery of dead body at the instance of accused no.1 on 21.01.2016. He further submitted that, applicant was on bail during trial. That, he is implicated merely because he was a waiter in the hotel of main accused, but there are no incriminating circumstances against him, still as he is held guilty, he has preferred appeal and as appeal will take long time to be heard, learned counsel prays for suspension of sentence and grant of bail.

5. Learned APP would strongly oppose on the ground that applicant is co-accused in a serious case of murder. According to him, though applicant is convicted for offence under Section 201 of IPC, he had participated in causing disappearance of the evidence post murder and that too, he is proved to have used *sattur* to behead the body. Learned APP pointed out that there is recovery of the knife and *Sattur* pursuant to memorandum of disclosure by present applicant, thereby his involvement having been substantiated and offence being of serious nature, learned APP prays to reject the application.

6. Heard. Perused the papers which show that applicant was arraigned as accused no.4 and was tried with in all 10 accused for commission of offence under sections 302, 364, 120B, 201 r/w 34 of IPC and under Section 4 r/w 25 of the Indian Arms Act. Operative

part of the judgment shows that present applicant is held guilty along with accused nos. 1, 3 and 6 for commission of offence under Section 201 r/w 34 of IPC. As regards to findings against present applicant are concerned, learned trial court has dealt the same in paragraph 89 of the judgment, observing that accused, while in custody, made voluntary statement of disclosure about cutting the clothes on the person of deceased by use of knife and beheading the deceased by means of *sattur* (article like chopper).

7. There is no dispute that case is based on circumstantial evidence and it is so evident even from paragraph 36 onward of the impugned judgment itself wherein learned trial court has dealt with the circumstances on which prosecution has rested its case. Alleged occurrence is of 18.01.2016. FIR is of 20.01.2016. Investigation has revealed that after deceased was shot by accused no.1, four accused persons, including present applicant and main accused, had disposed off the dead body. As regards to present applicant is concerned, while in custody, he seems to have given memorandum of disclosure that he used knife and *sattur* for tearing the clothes on the person of deceased as well as for beheading him and he had kept both these articles in a tin box in the hotel itself. Investigation Officer has effected recovery of the same vide Exhibit 389. Therefore, here, there is not only case of

causing disappearance of evidence, but also of beheading by use of *sattur*.

8. Consequently, role of applicant has also emerged for commission of offence under Section 201 of IPC. With such quality of material on record, which is proved, offence being grave and serious, this Court does not find it a fit case to extend benefit of suspension of sentence and grant of bail though sentence is for three years. Hence, following order :

ORDER

The application is rejected.

[ABHAY S. WAGHWASE, J.]