



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

CRIMINAL APPLICATION NO. 42 OF 2026
IN CRIMINAL APPEAL NO. 28 OF 2026

Swapnil @ Tawry s/o Rajendra Ramteke

..Vs..

State of Maharashtra

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

Court's or Judge's orders

Mr. Aditya Pande, Counsel for the applicant/appellant (appointed).

Mr. S.A. Ashirgade, Additional Public Prosecutor for the non-applicant/State.

CORAM : SHREE CHANDRASHEKHAR, CJ. &
ANIL S. KILOR, J.

DATED : 20th APRIL 2026

This suspension of sentence application has been filed by the applicant/appellant - Swapnil @ Tawry s/o Rajendra Ramteke, who is convicted and sentenced to rigorous imprisonment for life with fine of Rs.5,000/- under Section 302 of the Indian Penal Code, 1860.

2] In the course of trial, the prosecution examined 15 witnesses, out of whom, PW4, PW5 and PW11 have been relied upon by the Sessions Judge while delivering judgment dated 13/12/2022 in Sessions Trial No. 322/2016. The applicant/appellant is in custody since 15/3/2016.

3] Mr. Aditya Pande, learned Counsel for the applicant/appellant, submits that the trial Judge relied on the evidence of PW11, who is not in fact an eye-witness, PW4 did not support the prosecution case, and the testimony of PW5 suffers from several omissions and exaggerations.

4] Mr. S.A. Ashirgade, learned Additional Public Prosecutor, would, however, submit that no detail or in-depth scrutiny of evidence is permissible at the stage of suspension of sentence.

5] The judgment written by the Sessions Judge provides sufficient reasons for convicting the applicant/appellant for murder as PW7 – Dr. Rishikesh Pathak tendered evidence in the Court and stated that he found as many as 22 injuries over the dead body of Jitu Khandare. PW7 further observed internal injuries such as haematoma over left temporal region, contusions over both sides of scalp, fracture of vault, depression into oranial cavity, etc. The number of injuries on vital organs, which were attacked by the applicant/appellant, gives a picture of incident how brutally the deceased was assaulted by him. In *Kalyan Chandra Sarkar Vs. Rajesh Ranjan Alias Pappu Yadav And Another*, reported in (2004) 7 SCC 528), in paragraph 14, it is held as under :

“14. ... In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”

6] Therefore, we are not inclined to entertain this application. The criminal application is dismissed.

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7] The Registry to prepare paper-book.

(ANIL S. KILOR, J.)

(CHIEF JUSTICE)