

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO. 119 OF 2026

IN

CR. APPEAL NO. 98 OF 2026

Umaji Sateri Lohar

...Applicant.

Versus

State Of Maharashtra

...Respondent.

Ms. Archana Gaikwad a/w Mr. Satej Patill, Advocate for the Applicant
Dr. Ashwini A. Talekar, APP for Respondent - State

Coram : Sharmila U. Deshmukh &
Neeraj P. Dhote, JJ.

Date : August 20, 2026.

P. C. :

1. This is an application for suspension of sentence imposed by the learned Special Judge, Gadhinglaj, in Special Case No.01/2024, by Judgment and Order dated 27.02.2025, convicting and sentencing the Applicant – Appellant as follows :

"1. The accused is convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to suffer life imprisonment and to pay fine of Rs. 10,000/-(Rupees Ten Thousand only). In default of payment of fine, he shall undergo rigorous imprisonment of 2 years, vide Section 235 (2) of the Code of Criminal Procedure.

2. The accused is convicted for the offence punishable under Section 452 of Indian Penal Code and sentenced to suffer rigorous imprisonment of five years and shall pay fine of Rs.2,000/-(Rupees Two Thousand only). In default of payment of fine, he shall undergo rigorous imprisonment of six months, vide Section 235 (2) of the Code of Criminal Procedure.

3. *The accused is acquitted of the offence punishable under Section 504, 506 of Code and u/s. 3(1)(r)(s), 3(2) (va) r/w Section 6 of Scheduled Caste and Scheduled Tribes, prevention of Atrocities Act, vide Section 235(1) of Code of Criminal Procedure.*
4. *The accused be granted set off from 05/11/2023 to 27/02/2025 (till today) vide Section 428 of Code of Criminal Procedure.*
5.
6.
7.
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9.”

2. To know the Prosecution’s case, Paragraph No.2 of the impugned Judgment is reproduced below :

“1. The informant Rahul Suresh Kamble lodged report that on the day of incident, there was Sunday. His maternal brother namely Amit Yallavva Kamble (hereafter called as 'the deceased') was doing work of centering and he was residing with his grandmother Mallavva Dattu Kamble. The deceased was doing work with accused Umaji Sateri Lohar. The deceased was belonging to Hindu-Mahar caste. In October-2023, the deceased took Rs.1,000/- from the accused in advance. On 05/11/2023 at 8.45 a.m., the informant and the deceased were talking with each other in front of their Court yard. The accused called the deceased on mobile and asked whether he was coming for the work or not. The deceased replied that he would not come to work. The informant along with Shankar Kamble were

standing in front of house. The deceased was also standing in the court yard at 9.00 a.m. Suddenly the accused came on his motorcycle bearing No.KA/22/U/809. He gave dash to the deceased with an intention to kill him. He inserted his motorcycle between two legs of the deceased. The accused was started to abuse the deceased by saying 'to return his money'. When the deceased entered in his house the accused followed him. After some time, the accused came out of house and went away. The deceased holding his stomach lying on the floor of the house. Saliva was coming out of his mouth. He sustained injury to thumb of right leg. The deceased was shouting therefore surrounding persons gathered and they took the deceased to Savitri Hospital, Shinoli Budruk. The doctor asked to take him to Belgaon. He was taken to Civil Hospital, Belgaon. After admission and on examination, the doctor informed that the deceased was dead. The informant lodged report against the accused for the offence under section 302, 452, 504, 506 of Code and u/s. 3(1)(r)(s), 3(2)(va) r/w. Atrocities Act. On investigation, charge-sheet filed against the accused for the offence u/s. 302, 452, 504, 506 of Code and u/s.3(1)(r)(s), 3(2) (va) r/w Section 6 of Atrocities Act. On charge-sheet, the case is committed to this Court. After commit, this Court framed charge against the accused for the offence u/s.302, 452, 504, 506 of Code and u/s. 3(1)(r)(s), 3(2)(va) r/w. Section 6 of Atrocities Act. The accused denied the charges and claimed to be tried."

3. The learned Trial Court, on appreciating the evidence of eyewitnesses and the medical evidence, convicted the Appellant and sentenced him as above.

4. It is submitted by the learned Advocate for the Appellant that, though the Prosecution has examined eyewitnesses to the incident, they had given contrary versions in respect of the actual incident. The evidence of one witness goes to show that, there was no damage to the motorcycle. The evidence of the police constable, who collected the CCTV footage, goes to show that, the CCTV footage does not show the occurrence of incident, as narrated by the Informant. She submits that, the Appellant is behind bars for a period of two (02) years and eight (08) months and the Appeal would take its own time for final hearing. She submits that, the Application be allowed.

5. The Application is opposed by the learned APP. She submits that, the case is based on the testimony of eyewitnesses. The complainant, who belong to the Scheduled Caste, is not made a party-Respondent in the Appeal. The medical evidence corroborate the testimony of the eyewitnesses. The learned Trial Court has rightly appreciated the evidence on record and passed the Judgment of conviction and sentence. She submits that, no case for suspension of sentence is made out.

6. With the assistance of both the sides, we have perused the evidence on record. The Prosecution examined eyewitnesses in support of their case, who deposed that, the Appellant gave dash to the deceased by the motorcycle, and thereafter assaulted him. The evidence of PW – 9, Policemen, goes to show that, the incident was captured in the CCTV footage. His evidence goes to show that, the incident captured in the CCTV was not the same as narrated by the Informant in the report. The medical evidence goes to show that, there was one external injury pelvic and groin as were contused and reddish in colour. On internal examination, the right side chest wall was showing blood. The medical evidence of PW – 2 - Dr. Pushpa, who conducted the postmortem, shows that, only provisional opinion in respect of the cause of death was given as '*shock and hemorrhage due to blunt trauma sustained to abdomen*'. The cross-examination of the Medical Officer goes to show that, she did not gave any final opinion in respect of the cause of death. This indicate that, the final cause of death is not available on record. Considering all these aspects of the matter, the possibility that, the offence may be scaled down to lesser offence cannot be ruled out. Since the Appellant is acquitted for the offence punishable under the provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, and there is no Appeal against the said acquittal, there is no requirement to hear the Informant.

7. The Appeal is of 2026 and not likely to reach in near future. In view of the matter, we are inclined to pass the following order :

ORDER

- [I] The Application is allowed.
- [II] The substantive sentence imposed by the learned Special Judge, Gadhinglaj, in Special Case No.01/2024, by Judgment and Order dated 27.02.2025, on the Applicant, namely, Umaji Sateri Lohar, is suspended during the pendency of the present Appeal.
- [III] The Applicant be released on bail on his furnishing P.R. Bond of Rs.15000/- [Rupees Fifteen Thousand only] with one or two sureties in the like amount.
- [IV] The Applicant shall co-operate with this Court in early hearing of the Appeal.
- [V] Bail before the Trial Court.

8. Application stands disposed of accordingly.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]