

HARISH
VITHAL
CHAUDHARI

Digitally signed
by HARISH
VITHAL
CHAUDHARI
Date:
2026.10.08
19:26:53 +0530

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

CRI-INTERIM APPLICATION NO. 366 OF 2026

IN

CR. APPEAL NO. 1195 OF 2024

Amir @ A. Hamid Nazir Mulla

...Applicant

Versus

The State Of Maharashtra And Others

...Respondents

Mr. Ritesh Thobde a/w Darshan Singh Rajpurohit for the Applicant.

Mr. S. H. Yadav, APP for the Respondent-State.

Mr. Akshay Jagtap for Respondent No. 2.

Mr. Shridhar H. Kumbhar Liaison Officer Prison.

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

Date : October 08, 2026.

P. C. :

1. This is the second application for suspension of sentence and bail by the Appellant.
2. The Applicant/Appellant was convicted by the learned Sessions Judge, Solapur, in Sessions Case No. 79 of 2022, by Judgment and Order dated 28th February 2023, thereby convicting and sentencing the Applicant/Appellant as follows:

1. *The accused No.1 Khadirsab @ Munna Chandsab Patel, Age: 30 yrs., accused No.2 Amir @ A. Hamid Nazir Mulla, Age: 26 yrs., Both R/o.: Maddi Tadvalga, Tal. Indi, Dist. Vijapur, State*

Karnataka and accused No.3 Huseni Nabilal Jeure @ Todunge, Age: 23 yrs., R/o. Karajagi, Tal. Akkalkot, Dist. Solapur are found guilty for the offences punishable under Sections 307, 326, 324, 201, read with Section 34 and Section 120-B of the Indian Penal Code.

2 *The accused No.1 Khadirsab @ Munna Chandsab Patel, accused No.2 Amir @ A. Hamid Nazir Mulla, and accused No.3 Huseni Nabilal Jeure @ Todunge are convicted for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code vide Section 235 (2) of the Code of Criminal Procedure and sentenced to undergo rigorous imprisonment for life, which shall not be less than Thirty (30) years and pay fine of Rs.50,000/-(Rupees Fifty Thousand only) each with default stipulation to undergo rigorous imprisonment of Five (05) years each.*

3 *The accused No.1 Khadirsab @ Munna Chandsab Patel, accused No.2 Amir @ A. Hamid Nazir Mulla, and accused No.3 Huseni Nabilal Jeure @ Todunge are convicted for the offence punishable under Section 201 read with Section 34 of the Indian Penal Code vide Section 235 (2) of the Code of Criminal Procedure and sentenced to undergo rigorous imprisonment of Three (03) years and pay fine of Rs.5,000/-(Rupees Five Thousand only) each with default stipulation to undergo rigorous imprisonment of Six (06) months each.*

4 "

5 "

6 "

7 "

8 "

9 "

10 i "

ii "

iii "

iv "

11 ”
 12 ”

3. The prosecution’s case in brief, as revealed from the impugned Judgment, reads as under. The relevant paragraphs from the impugned Judgment are reproduced below :

2 On 17/11/2021, around 07.00 p.m., PW-1 'X' victim was at his home in Vijayapur, District Vijayapur, Karnataka State. The accused No.1 Khadirsab @ Munna and accused No.2 Amir @ A.Hamid came on motorcycle to him. They asked him to accompany by them for dinner at Manur, Taluka Indi, District Vijayapur. They reached around 08.30 p.m. at village Manur. At the same time, accused No.3 Huseni, who has acquaintance with PW-1 'X' rode on his motorcycle. They all went to Dhaba (roadside eatery) at Manur and had supper. The accused No.2 Amir told that an auto rickshaw of his friend turned to be breakdown near the village Kadabgaon. Taluka Akkolkot, District Solapur. They all rushed to Kadabgaon around 11.00 p.m. However, PW-1 'X' did not find rickshaw on the spot. When, he alighted from the motorcycle, the accused No.2 Amir took out the beer bottle from the dicky of his motorcycle. He consumed the beer and began reviling PW-1 'X'. In the same moment, he hit the beer bottle on the head of PW-1 'X' and thereby he sustained the bleeding injury. The accused No.1 Khadirsab picked up a stick nearby the spot and dealt with the blows on the person of PW-1 'X'. When he asked them as to why they thrashed him, in turn, accused no.3 Huseni disclosed that 'he was their target and would eliminate him'. In the same bit, he kicked on the chest of PW-1 'X'. Accused No.1 Khadirsab and accused No.2 Amir caught hold of both legs of PW-1 'X' and sat on his body. Meanwhile, accused No.3 Huseni stripped off the pant and undergarment of PW-1 'X' and perforated his penis with testis. The trio accused run away from the

spot. Following the profuse bleeding, PW-1 'X' became unconscious.

2.1 At morning, when PW-1 'X' regained conscious, he informed a passerby PW-7 Dattatray Sutar, an employee of Gram Panchayat, Kadabgaon and made call to his brother PW-4 Firoj from the mobile of latter. After some time, his brother-in-law PW-10 Riyaj Dhalait, R/o. Kolibit, Taluka Akkalkot rushed to the spot and removed him to the Government Hospital, at Akkalkot.

3 At the outset, when the victim was removed to the Government Hospital, at Akkalkot, PW-13 Dr. Smt.Priyanka Wagaj recorded the history of assault on 17/11/2021 at 10.30 p.m. She had clinically examined the injured PW-1 'X' and noted the following injuries on his person :-

- i Amputation of penis with bilateral scrotum.*
- ii CLW of size 3 x 1 x 1 on right eyebrow.*
- iii CLW of size 1 x 0.5 x 0.5 on lower lip.*
- iv CLW of size 3 x 1 x 1 on frontal region head*
- v CLW of size 2 x 1 x 0.5 on right thigh medially.*

4 PW-13 Dr. Smt.Priyanka Wagaj issued Medical Certificate Exh.59. According to her opinion, injury No.1 was caused by sharp weapon like blade Article 'E'. The injury was grievous in nature and danger to the life. Whereas, injuries No.2 to 5 were the result of hard and blunt object. These injuries were simple in nature. The age of all injuries quoted supra was within 24 hours.

5 After primary treatment, PW-1 'X' was shifted to the Civil Hospital, Solapur. PW-9 Dr. Khushal Malwade had clinically examined him and found afore-quoted injuries on his person. Accordingly, he issued Medical Certificate Exh.46 with synonymous opinion of his colleague PW-13 Dr. Smt. Wagaj."

4. It is submitted by the learned counsel for the

Applicant/Appellant that, the first application for suspension of sentence was withdrawn with liberty to file afresh if the Appeal was not taken up for final hearing within a period of six (6) months. He submits that the learned trial court has awarded a sentence of imprisonment for a period of 30 years, which is not permissible in the eye of the law. He further submits that, the role attributed to the Applicant/Appellant shows that, he caused simple injuries to the victim. He further submits that in all, three (3) accused came to be convicted and an amount of Rs. 10 Lakhs was awarded as compensation by the learned Trial Court to be paid by the convicts to the victim. The Applicant/Appellant has paid Rs. 2 Lakhs by way of a demand draft to the victim. He further submits that, the Appeal is not likely to be heard finally in the near future and, therefore, the application be allowed.

5. The application is opposed by the learned APP and the learned counsel for the victim. They submit that, the evidence on record goes to show the role played by the Applicant along with the co-convicts. The conviction is with the aid of Sections 34 and 120-B of the Indian Penal Code 1860. The learned Trial Court has awarded an appropriate sentence after appreciating the evidence on record and, therefore, the application be rejected. They admitted that, the Applicant/Appellant has paid Rs. 2 lakhs towards the compensation to the victim.

6. With the assistance of both sides, we have gone through the

evidence on record. The case is based on the testimony of the injured victim. The role attributed to the Applicant/Appellant is that, he hit the victim with a beer bottle and thereafter caught hold of him, which facilitated the co-convict No. 3 Huseni Nabilal Jeure to cause grievous injury. The medical evidence on record goes to show that, the injuries caused by the Applicant/Appellant to the victim were simple in nature. The Applicant/Appellant has paid compensation of Rs. 2 Lakhs to the victim.

7. Considering the role attributed to the Applicant/Appellant and the above aspect, we are inclined to pass the following order:

ORDER

- i. The application is allowed.
- ii. The substantive sentence of imprisonment imposed by the Trial Court by the Judgment and order dated 28th February, 2023, convicting the Applicant is suspended during the pendency of the Appeal
- iii. The Applicant/Appellant is directed to be released on bail on furnishing P. R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- iv. The Applicant/Appellant, before to his release, shall provide details of his residential address and mobile/landline contact numbers to the jail authorities which shall be forwarded to the concerned Police Station.

- v.** The Applicant/Appellant shall not enter in the vicinity of Tadvalga to Indi, Dist- Vijapur, Karnataka, until further orders.
 - vi.** The Applicant/Appellant shall co-operate with this Court for early hearing of the Appeal.
 - vii.** Bail before the Trial Court.
- 8.** The Application stands disposed of accordingly.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]