



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

CRI-INTERIM APPLICATION NO. 445 OF 2026

IN

CR. APPEAL NO. 175 OF 2026

Ganesh Sonaram Murmu

...Applicant.

Versus

State Of Maharashtra And Another

...Respondents.

AND

CRI-INTERIM APPLICATION NO. 454 OF 2026

IN

CR. APPEAL NO. 176 OF 2026

Rajesh Budhan Tudu

...Applicant.

Versus

State Of Maharashtra And Another

...Respondents.

Mr. Romanik Pawar a/w Mr. Abid Sayyed, Mr. Amit Waykool, Ms. Pooja Deshmukh and Mr. Nadeem Saudagar i/b Mr. S. V. Mahamulkar, Advocates for the Appellants in both the Applications.

Mrs. Mahalaxmi Ganapathy, Addl.PP for the Respondents-State in both the Applications.

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

Date : September 21, 2026.

P. C. :

1. These are the Applications by the convicts for suspension of sentence imposed by the learned 2nd Additional Sessions Judge, Satara, in Sessions Case No.144/2020 vide Judgment and Order dated 17.06.2026. The operative order of the said Judgment reads as follows :

- "1. Accused No.1 Rajesh Budhan Tudu is hereby convicted of the offence punishable under Section 302 r/w 34 of the Indian Penal Code and he is sentenced to suffer rigorous imprisonment for life and to pay fine of Rs. 5,000/- in default to suffer simple imprisonment for six months.*
- 2. Accused No.2 Ganesh Sonaram Murmu is hereby convicted of the offence punishable under Section 302 r/w 34 of the Indian Penal Code and he is sentenced to suffer rigorous imprisonment for life and to pay fine of Rs. 5,000/- in default to suffer simple imprisonment for six months.*
- 3. Accused Nos.01 and 02 are hereby acquitted of the offence punishable under Section 201 r/w. Section 34 of the Indian Penal Code.*
- 4.*
- 5.*
- 6.*
- 7.*
- 8.*
- 9.*
- 10. "*

2. The case of Prosecution, in brief, is that, the Deceased spread the words that, his cycle was stolen by Accused No.1 – Rajesh. Therefore, both the Applicants / Appellants hatched conspiracy and committed the murder of the Deceased on 31.05.2020 after consuming liquor at one place. The dead body was found on the next day in one agricultural field. The police were informed and the crime came to be registered. After the investigation, the Applicants / Appellants came to be charge-sheeted for the offence punishable under Sections 302 and 201 of the Indian Penal Code, 1860 [hereinafter referred to as 'IPC']. After the trial, the learned Trial Court convicted the Applicants / Appellants by the impugned Judgment and Order.

3. It is submitted by the learned Counsel for the Applicants / Appellants that, the case is based on circumstantial evidence. The circumstances brought on record by the Prosecution are that, the Deceased was lastly seen in the company of the Applicants / Appellants and the Applicants / Appellants made the extra-judicial confession in respect of the crime. He submits that, the said evidence on record do not conclusively prove the involvement of the Applicants / Appellants in the crime. The Applicants / Appellants are behind bars for a period of more than six (06) years and the Appeals are not likely to be heard finally in near future. He submits that, the sentence be suspended and the Applicants / Appellants be released on bail.

4. The Applications are opposed by the learned Addl. PP. She submits that, the mobile phone of PW – 7 was seized, wherein, the extra-judicial confession by the Applicants / Appellants was recorded. The said recording was played before the learned Trial Court and the same was identified by Witness No.7. She further submits that, the evidence of PW – 8 shows that, he saw the deceased lastly in the company of the Applicants / Appellants before the dead body was found. She further submits that, the blood-stained stone was found from the spot of incident. She submits that, this evidence is sufficient to show the involvement of the Applicants / Appellants in the crime and the Applications be rejected.

5. With the assistance of both sides, we have gone through the relevant evidence on record. The Prosecution's case is based on circumstantial evidence. The two circumstances brought on record against the Applicants / Appellants are that, the Deceased was lastly seen with them before his death, and the extra-judicial confession.

6. The evidence of PW – 7 goes to show that, the extra-judicial confession was made to one Umesh, who is admittedly not examined by the Prosecution. According to PW – 7, the extra-judicial confession was recorded in his mobile phone when Accused No.2 – Ganesh made the extra-judicial confession before him. His evidence goes to show that, he threatened the Accused No.2 – Ganesh for giving the extra-judicial confession. His further evidence goes to show that, the language, in which, the extra-judicial confession was made was '*Khortha*' of Jharkhand State. There is no evidence or material to show that, the said language was known to the witness and the Prosecution had prepared a transcript and translation of the said recording. Therefore, the said evidence in respect of extra-judicial confession cannot be said to be proved.

7. As regards the circumstance that, the Deceased was lastly seen in the company of the Applicants / Appellants, the evidence is that of Witness No.8. His evidence goes to show that, from one lady, he came

to know after two (02) to three (03) days that, one murder of third person was committed. It is seen from his evidence that, his statement was recorded by the Police on 17th June, i.e. fourteen (14) days after he had lastly seen the Deceased with the Applicants / Appellants. There is nothing to show that, the said delay was explained by the Prosecution.

8. Apart from the aforesaid circumstantial evidence, there is no evidence to link the Applicants / Appellants with the crime. The Applicant / Appellant has good arguable case on merits. The Applicants / Appellants are behind bars for period of more than six (06) years. The Appeals are of 2026 and not likely to be heard finally in near future. Thus, we are inclined to pass the following order :

ORDER

- [a] The Applications are allowed.
- [b] The substantive sentence imposed by the learned the learned 2nd Additional Sessions Judge, Satara, in Sessions Case No.144/2020 vide Judgment and Order dated 17.06.2026 on the Applicants / Appellants, is suspended during pendency of the Appeals.
- [c] Applicant - Ganesh Sonaram Murmu in Criminal Appeal No.445/2026 and Applicant - Rajesh Budhan Tudu in Criminal Appeal No.454/2026 be released on bail on furnishing P. R. Bond of Rs.15000/- (Rupees Fifteen Thousand Only) each, with one (01) surety in the like amount.

- [d] The Applicants shall co-operate in early hearing of the Appeals.
- [e] The Applicants shall attend the Satara Taluka Police Station once in three (03) months during daytime.
- [f] The Applicants shall furnish details of their permanent address of native place along with their phone numbers and that of close relatives to the Jail Authorities. The same shall be done before they are released on bail.
- [g] Bail before the learned Trial Court.
- [h] Applications stand disposed of accordingly.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]