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

**CRI-INTERIM APPLICATION NO. 3524 OF 2025**

**IN**

**CR. APPEAL NO. 1307 OF 2024**

Preetam Ganpati Patil

...Applicant.

**Versus**

The State Of Maharashtra

...Respondent.

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*Mr. Atharva R. B. (Through V. C.) i/b Sumit Patil for the Applicant.  
Smt. S. N. Deshmukh, APP for the Respondent-State.*

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**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 Additional Sessions Judge Kolhapur, Dist-Kolhapur in Sessions Case No. 63 of 2017 by judgment and order dated 05.07.2024, convicting and sentencing the appellant/applicant as follows :

“1] Accused No. 1 Preetam Ganpati Patil is convicted u/s.235(2) of Criminal Procedure Code for the offence punishable u/s.302 of Indian Penal Code and he is sentenced to undergo imprisonment for life and to pay fine of Rs.20,000/-(Rs. Twenty Thousands only), in default, to

undergo rigorous imprisonment for one year.

2] Accused No.1 Preetam Ganpati Patil is convicted u/s.235(2) of Criminal Procedure Code for the offence punishable u/s.201 of Indian Penal Code and he is sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs.5,000/-(Rs. Five Thousand only), in default, to undergo rigorous imprisonment for one year.

3] Accused No.1 Preetam Ganpati Patil is convicted u/s.235(2) of Criminal Procedure Code for the offence punishable u/s.452 of Indian Penal Code and he is sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs.5,000/-(Rs. Five thousands only), in default, to undergo rigorous imprisonment for one year.....”

2. To show the prosecution's case, paragraph No. 2 of the impugned judgment of the learned Trial Court, is reproduced below:

“ The name of the deceased is Dr. Krishna Rambhau Kirawale. He was residing at K.P. Residency, Plot No.2, Mhada Colony, Kolhapur. He was retired as Professor from Shivaji University, Kolhapur. He was the author of different books and activist and follower of Dr. Babasaheb Ambedkar. On 03-03-2017 at about 11.00 a.m. deceased left home and returned at 3.00 p.m. The deceased and his wife took lunch. The deceased went to 2<sup>nd</sup> floor room for rest and his wife Kalpana went at first floor room. At about 4.00 p.m. wife Kalpana Kirawale heard voices of his shouting from the

room of the deceased. She went to second floor room. She noticed that the door of the room was open. The accused Preetam Patil had hold the neck of deceased by right hand and blood was lying there. So she rushed outside the house for help. She went to Kirana shop of Pujari for help and to make phone to police but the call could not be connected. Then she went to the house of Kadam, waited for Balu Kadam and then came near the house with him. Till that time the crowd was gathered. Balu Kadam went to second floor room and he noticed that the deceased was lying in pool of blood. Then police came there. PI Amrut Deshmukh received the information of the incident and he proceeded to the spot with the staff members. The persons by name Vijaysing Mohansing Rajput was there. He disclosed that when he was for his work at Gokul Shirgaon, he received the phone call of the accused Preetam Ganpati Patil, who disclosed to him on phone that he killed the deceased and called him. Vijaysing further disclosed that he accordingly came there and saw the dead body. Then the other activities were done by PI Deshmukh.”

3. The crime was registered, investigation was done and chargesheet was filed. The prosecution led evidence before the learned Trial Court. On considering the evidence on record, the learned Trial Court convicted and sentenced the appellant/applicant as above.
4. It is submitted by the learned advocate for the applicant-appellant that, though the prosecution examined the eyewitness to the

incident, material omissions are brought in the cross-examination which completely demolishes her evidence in the examination-in-chief that, she witnessed the incident. He further submits that, there is delay of three (3) days in recording the statement of the eyewitness, and there is no explanation for the same from the side of the prosecution. The appellant is behind bars for a period of nine (9) and half ( $\frac{1}{2}$ ) years. The appeal would take its own time, and the appellant has an arguable case on merits; therefore, the application be allowed, and the applicant-appellant be released on bail.

5. The application is vehemently opposed by the learned APP. She submits that, the prosecution examined the wife of the deceased as PW No. 3. Her evidence shows that, she witnessed the incident that, the appellant assaulted her deceased husband. The recovery of the weapon 'Sattur' was effected at the instance of Accused No. 2, who was the applicant-appellant's mother. The report was lodged by PW No. 1, to whom the appellant had made a phone call and informed that a quarrel had taken place between him and someone. The admission in the cross-examination will not demolish the evidence of eye witness. She submits that the learned Trial Court has rightly appreciated the evidence on record and the application be rejected.

6. With the assistance of both the sides, we have perused the evidence on record. The prosecution's case is based on the testimony of

the single eyewitness, i.e. the wife of the deceased, who is examined as PW No. 3. Though in her examination-in-chief she deposed that, she witnessed the appellant assaulting her deceased husband, her cross-examination indicates that, the witnessing of the incident of assault by the appellant on her husband was an omission in her previous statements. The said omission goes to the root of the case. Though the evidence of PW No. 1, informant, goes to show that the appellant had called him, his evidence nowhere shows that, the conversation was in respect of the assault to the deceased. Even accepting the said evidence, the same would be an extra-judicial confession, which would be a weak piece of evidence. There is no material to show that the blood of the deceased was found on the seized weapon. The weapon was seized or discovered at the instance of Accused No. 2. Thus, the recovery/ discovery will not be relevant as per Section 27 of the Evidence Act. Undisputedly, the cause of death of the deceased was hemorrhage due to multiple injuries to vital organs. The injury on the hand of the appellant by itself will not be sufficient to prove the involvement of the appellant in the crime.

7. The above aspects in the matter goes to show that, the appellant has an arguable case on merits. The appeal is of 2024. There is no possibility that the appeal would be heard finally in the near future. The appellant is behind bars for a period of more than nine (9) years. In view

thereof, we are inclined to pass the following order:

**ORDER**

- a)** The application is allowed.
- b)** The substantive Sentence imposed by the learned Additional Sessions Judge, Kolhapur, in Sessions Case No. 63 of 2017 by judgment and order dated 05.07.2024 on the appellant, is suspended during pendency of the Appeal.
- c)** Applicant - Preetam Ganpati Patil 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.
- d)** The Applicant–Appellant shall co-operate in early hearing of the Appeal.
- e)** Bail before the Trial Court.
- f)** Application stands disposed of accordingly.

**[Neeraj P. Dhote, J.]**

**[Sharmila U. Deshmukh, J.]**