

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1182 OF 2025
IN
CRIMINAL APPEAL NO. 1610 OF 2019

Vicky @ Vikram Vijay Ghatage .. Applicant/Appellant
V/S.
State of Maharashtra .. Respondent

Mr. R.S. Dubey, for the Applicant /Appellant.

Smt. P.N. Dabholkar (through VC) APP, for the Respondent/State.

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CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.
DATE : 1st OCTOBER, 2026.

ORDER: *(Per Shreeram V. Shirsat, J.)*

1. Heard Mr. Dubey, Learned Counsel for the Applicant/Appellant and Smt. Dabholkar, Learned APP for the State.
2. The Applicant/Appellant is seeking bail and suspension of sentence pending appeal, essentially on the ground that the Applicant has undergone a sentence for more than 11 years.
3. The Applicant/Appellant has been convicted by a judgment and order dated 24.10.2019 passed by the Additional Sessions Judge, Thane, for the offences punishable under Sections 302, 307 read with 34 of the Indian Penal Code ("IPC") and has been sentenced to suffer imprisonment for life and to pay a fine of Rs. 5,000/- for each offence and in default of the

payment of fine, to further undergo rigorous imprisonment for a period of six months.

4. Against the said order of conviction, the Applicant/Appellant has preferred an appeal before this Court, being Criminal Appeal No. 1610 of 2019, which is pending before this Court.

5. The learned counsel for the Applicant relied upon the judgments of *Saudan Singh v. State of Uttar Pradesh*¹ and *Sonadhar v. State of Chhattisgarh*².

6. The contention of the Ld. Counsel for the Applicant is that the Applicant has been incarcerated for more than 11 years and that the appeal is not likely to be heard in the near future. He submitted that the Applicant has been in jail since the date of his arrest. He submitted that there are no extenuating circumstances or any criminal antecedents against the Applicant. He also submitted that an earlier bail application made by the Applicant was rejected by this Court vide order dated 29.01.2020. He also submitted that the Accused No. 1 Babu Khare, has been released on bail as he had undergone more than 10 years and 2 months of actual imprisonment. Learned Counsel for the Applicant submitted that he is not arguing the bail application on merits, but has confined his case only to limited extent that Applicant has suffered long incarceration of more than

1 (2023) 17 SCC 446

2 (2022) SC 788

11 years.

7. *Per contra*, the Ld. APP strongly opposed the release of the Applicant on bail pending appeal and submitted that the Applicant is involved in an offence under Sections 302 and 307 of the IPC and the same has been committed in a calculated manner and therefore, the application be rejected. The Ld. APP submitted that the Applicant has committed as very serious offence and therefore the Applicant should not be released on bail pending the appeal.

8. In ***Saudan Singh*** (supra), the Apex Court has been pleased to observe as under:

“7. There may be cases where for whatever reason the advocate may not be present as has been set out in the report of the High Court but if they have already completed 14 years of actual sentence, the State itself should take an appropriate stand and the learned Judge can himself pass appropriate orders to at least examine those cases for release and the absence of the advocate cannot come in the way in such a scenario.

8. We have put to learned AAG and the learned counsel for the High Court that a list should be prepared of all cases where the person has served out a sentence of 14 years, is not a repeat offender, and in any case if in these cases at one go bail can be granted and cases remitted for examination under the Uttar Pradesh Prisoners Release on Probation Rules, 1938. In all these cases, there is a high possibility that if these people are released, they may not be even interest in prosecuting their appeals.

9. The second category of cases can be one where the person has served out more than 10 years of sentence. In these cases also at one go bail can be granted unless there are any extenuating circumstances against him.

10. We are quite hopeful that the High Court will adopt the aforesaid practice and thus prevent the Supreme Court to be troubled with such matters.”

9. We are of the opinion that in terms of categorization specified by the Supreme Court in the case of ***Saudan Singh*** (supra), and since the Applicant has served more than 11 years of actual imprisonment, the bail application of the Applicant can be considered.

10. We had asked the Ld. APP to call for a report from the jail authorities to ascertain the actual years of imprisonment undergone by the Applicant. The Ld. APP has placed on record the Custody Report as well as the Conduct Certificate of the Applicant submitted by the Superintendent of Jail, Kolhapur Central Prison, Kalamba. The Custody Report notes that the Applicant has undergone a sentence of 11 years, 3 months, and 14 days of actual imprisonment as on 31.08.2026. The conduct certificate of the Applicant dated 20.09.2026 shows that the Applicant follows the prison rules and regulations and that his behaviour is good.

11. Considering the fact that the Applicant has undergone actual imprisonment of more than 11 years, there are no criminal antecedents and the appeal is of the year 2019, which is not likely to be taken up for hearing in the near future, coupled with the fact that the behaviour of the Applicant is good, we are inclined to release the Applicant on bail pending appeal.

12. We may also refer to the decision of the Hon'ble Apex Court in the case of ***Sonadhar v. State of Chhattisgarh*** (supra), wherein it has been observed that "*we are of the view that all persons who have completed 10*

years of sentence and appeal is not in proximity of hearing with no extenuating circumstances should be enlarged on bail."

13. We also refer to the observations made by the Hon'ble Supreme Court in ***Dinesh Paul @ Daniel Khajekar v. State of Maharashtra***³, wherein it was held that:

"the appellant has undergone incarceration for a period of more than 11 years. In fact, the High Court ought to have granted relief under Section 389 of Code of Criminal Procedure, 1973 to the appellant."

14. Taking into consideration the dictum of the Hon'ble Apex Court, we are inclined to allow this application. As a consequence, the Applicant is found to be entitled to be released on bail during the pendency of the appeal.

Hence, we pass the following order.

ORDER

A) The Application is allowed.

B) The sentence of imprisonment imposed by the learned Additional Sessions Judge, Thane, in Sessions Case No. 457 of 2014 vide judgment dated 24.10.2019 is suspended during the pendency of the appeal, and the Applicant is released on bail on the following conditions:

i) The Applicant is directed to furnish a personal bond and a surety

³ (Criminal Appeal No. 2987 of 2023)

bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one or more local sureties.

(ii) The Applicant is directed to mark his attendance at the Navghar Police Station, on the first Monday of every month for a period of one year initially, and thereafter once in six months till the disposal of the appeal, preferably on the first Monday of January and June of every year. In case of two consecutive defaults in complying with the aforesaid condition, the prosecution will be at liberty to file an application for cancellation of bail.

(iii) The Applicant is directed to furnish his residential address and phone number and inform the police if there is any change in the address or phone number.

(iv) The Applicant shall not leave the State of Maharashtra without informing Navghar Police Station.

(v) The Applicant shall not leave the country without prior permission of this Court and shall deposit his passport, if any, with this Court.

(vi) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case.

(vii) The Applicant shall not misuse his liberty and/or flout any of the conditions imposed herein.

(viii) The Applicant shall not commit any offense during the period of his release.

(ix) The Applicant shall make himself available at the time of the final hearing of the appeal.

(x) The Applicant shall deposit the fine amount as directed by the Trial Court before his release.

15. The Application for bail and suspension of sentence is disposed of.

16. All other pending applications, if any, stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)