

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2228 OF 2026
IN
CRIMINAL APPEAL NO.619 OF 2026

Shanti Suresh Pal

Age – 76 years,

R/o. Room No. 408, R.J. Apartment,

Vijay Nagar, Virar (East), District –

Palghar,

Presently lodged at : Nashik Central
Prison.

...Applicant/
Appellant

Versus

The State of Maharashtra

(Through Wadala T.T. Police Station)

...Respondent

Ms. Payoshi Roy i/b. Ms. Palak Dubey, Advocate for the
Applicant/Appellant.

Ms. Sangeeta D. Shinde, APP for the Respondent – State.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.

DATED: 22nd JULY 2026.

ORDER :

1. The Applicant in this case is a 76 years old lady who has been convicted in an offence punishable under Section 302 of the Indian Penal Code (IPC) and sentenced to suffer rigorous imprisonment for life *vide* judgment and order dated 13.01.2025,

passed by the Additional Sessions Judge, Greater Mumbai, in Sessions Case No. 224 of 2022.

2. The brief background of the facts leading to conviction of the Applicant are that, on 15.11.2021, the Vimal alias Dilipsingh Khanna (hereinafter referred as, “the deceased”, for short), resident of Room No. 409, building No.6, Bhakti Park, MHADA Colony, Wadala East, Mumbai, after spending afternoon with P.W. 2, at his shop returned to his home. P.W. 2 Matloob Habib Shaikh received a call from the mobile phone of deceased himself. The call was made by an elderly women who spoke in Punjabi language, which he could not follow. However, through another person he came to know that Vimal Khanna has become unconscious, therefore he immediately proceeded to the room of deceased. When he knocked the door, the Applicant opened it, upon entering he saw deceased lying on the floor. The Applicant told him that deceased was unable to speak. Hence, he called the daughter of the deceased. Sonu Khanna (wife of the deceased) informed the Wadala TT police station about the condition of her husband. The PSI who was patrolling in that area arrived on the scene of offence and found the deceased lying on floor in a supine position with

injuries on forehead, neck, back and body. Three women were found to be present. The Applicant, her daughter Sonu Khanna and her grand daughter Preeti Khanna. The deceased was shifted to Sion hospital, Mumbai, where he was declared brought dead. After investigation, charge sheet has been filed and on completion of trial, the Applicant has been convicted by the learned Additional Sessions Judge, Mumbai for offence under Section 302 of the IPC.

3. The learned Advocate Ms. Payoshi Roy, for the Applicant submits that the allegations against the Applicant are that she had volunteered memorandum statement Exhibit-19 expressing her willingness to produce the weapon used in the offence. Accordingly, she led the two panchas and the investigation team to the Room No.409 and took out a hammer from the rack which was seized. Apart from that, the statement of P.W. 2 appears to be weighed on the mind of learned Additional Sessions Judge, Greater Mumbai, to hold the Applicant guilty of the offence.

4. P.W. 2 Matloob has stated that, on receiving call from the deceased's mother-in-law, when he went to the house of deceased, the Applicant has opened the door and he saw the deceased lying on the floor. Except these two witnesses there is no other witness

examined by the prosecution to prove presence of the Applicant alone with the deceased.

5. Ms. Roy would further submit that, the case is purely based on circumstantial evidence. There is no eye – witness to the alleged incident. The chain of circumstances is not conclusively proved. The material witnesses like Sonu Khanna i.e. the wife of deceased and grand daughter of Applicant have not been examined by the prosecution. She further submitted that there is no nexus established, by conclusive forensic proof of the alleged weapon and the deceased. The blood group detected on the recovered hammer could not be determined to establish that the blood on the hammer was that of the deceased.

6. Ms. Roy further submits that, the Applicant is a senior citizen of 76 years, who requires regular medical care and monitoring, her incarceration is causing grave physical hardship to her. She has already undergone more than four and a half years of incarceration in the custody since 17.11.2021. Hence, she deserves to be released on bail by suspending the sentence. She has roots in the society and is not likely to abscond. She is ready to undertake any conditions that may be imposed on her by this Court.

7. The learned APP Ms. Sangeeta Shinde has vehemently opposed the application contending that the prosecution has established the complicity of the Applicant by leading cogent evidence. She was found present at the place of offence, she has given memorandum statement, which lead to recovery of the hammer which was kept in the house itself; which was used in the offence. Thus, her presence at the place of offence and recovery of weapon at her instance are sufficient to prove her complicity in the offence. Hence, the Application deserves to be dismissed.

8. We have heard the respective parties and perused the notes of evidence placed on record. The case of the prosecution is based on circumstantial evidence, hence, it was necessary to prove the chain of circumstances beyond reasonable doubt and establish the complicity of the accused.

P.W. 1 police constable on receiving information that one lady who is residing in Room No.409 at Bhakti Park, Wadala, Mumbai, had informed that someone has assaulted her husband, hence, he along with other police constable have reached the crime scene, where three women were present. One women named Sonu along with her daughter Preeti and mother Shanti Pal were

present. They were taken to police station, where the Applicant Shanti Pal has given confession about commission of offence. Admittedly, the extra judicial confession by the accused is not admissible in the evidence.

9. P.W. 2 has stated that when he arrived at the place of offence, only the Applicant was present in the room. However, he neither called police or made inquiry with the neighbours. Thus, there is inconsistency in the testimony of P.W. 1 and P.W. 2 about the number of person present in the house.

10. The glaring inconsistency in the evidence of the prosecution is that, even though the offence has taken place on 16.11.2021, and the Applicant has allegedly given her extra judicial confession about commission of offence on the same day, the weapon hammer has been recovered on 29.11.2021, which is almost 13 days after her extrajudicial confession. P.W. 3 Sadashiv Lingayya Shetty, the panch witness deposed that the recovery pursuant to memorandum statement is made on 29.11.2021, whereas in the statement of P.W. 8 Nivrutti More, the IO, has stated that the accused had shown her willingness to produce the weapon on 19.11.2021. Thus, there are inconsistencies even in the testimony

of P.W. 3 and P.W. 8 about date of recording of memorandum statement of the accused.

11. Thus, on perusal of the notes of evidence produced by the prosecution, we find that a *prima facie* case is made out by the Applicant. Even otherwise considering that the Applicant is an senior citizen aged 76 years, who has already undergone more than five years of imprisonment, and the present Appeal is not likely to be taken up for final hearing in the near future, in our opinion, it would be appropriate to release the Applicant on bail by suspending the sentence of life imprisonment, imposed on her *vide* judgment and order dated 13.01.2025, passed by the Additional Sessions Judge, Greater Mumbai, in Sessions Case No. 224 of 2022.

12. Hence, the Application of the Applicant is allowed. The judgment and order dated 13.01.2025, passed by the Additional Sessions Judge, Greater Mumbai, in Sessions Case No. 224 of 2022, shall stand suspended, pending the hearing and final disposal of the Appeal and the Applicant shall be released on bail on following conditions:

- (i) Pending the hearing and final disposal of the appeal, the Applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) The Applicant shall report to the Wadala T.T. police station once in three months on the day/date specified by the concerned police station incharge, till the Appeal is finally disposed of;
- (iii) The Applicant shall keep the police station i.e. Wadala TT police station, Mumbai, informed of her current address and mobile contact number and/or change of residence or mobile details along with the mobile number and address of her relative, if any, from time to time.

12. Parties to act on an authenticated copy of this order.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)