

Rohit Ghuge

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2497 OF 2026
IN
CRIMINAL APPEAL NO. 367 OF 2025

ROHIT
RAMDAS
GHUGE

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Date: 2026.09.03
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Ajit Bhagwan Kanhurkar,

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Salman Pathan, Mr. Santosh Bhagwat, Mr. Vedant Bhagwat,
Advocates for the Applicant.

Mr. Tanveer Khan, APP for the Respondent No.1-State.

CORAM: **BHARATI DANGRE &
ASHISH S CHAVAN, JJ.**

DATE : **03rd SEPTEMBER 2026.**

PC.

1. The Applicant has approached this Court seeking suspension of sentence imposed on him vide order and judgment dated 10.02.2025 convicting him for offense punishable under Section 302 of the Indian Penal Code ("IPC") and bail pending Appeal. The Applicant was sentenced to rigorous imprisonment for life and to pay a fine of Rs.1,00,000/-, along with default sentence. Although, the Applicant was charged for offences punishable under Section 4 read with Section 25 and 27 of the Arms Act along with Section 37(1) read with Section 135

of the Bombay Police Act, he was acquitted of these charges.

2. Heard, Mr. Salman Pathan, for the Applicant and Mr. Tanveer Khan APP for Respondent-State, perused the Application and Appeal.

3. The case of the prosecution in a nutshell is that the informant, one Shivaji Khese lodged a report on 12.06.2018 informing that Shrinath Khese (deceased) and Pournima Khese, daughter of his cousin brother Sudam Khese were at Khese Vasti Bus stop at about 7.20 am. They both boarded the bus. He was on his motorcycle, going to distribute milk at village Davadi and when he was at Jagdamba Maka Bharada Kendra he saw that the ST Bus was stopped there. The people in the bus were raising hue and cry. He stopped his motorcycle behind the bus and came near the bus. He saw that Pournima was crying. He asked her as to what happened. She narrated that she along with the deceased (her brother) had boarded the bus at Khese Wasti. The Applicant was in the bus on the rear end side. When the bus was in motion, the Applicant got up from his seat, took out a sickle from his bag and assaulted the deceased with the sickle on head and neck. He then ran away from the bus. When the informant entered the bus, he saw that the deceased was lying in an injured condition in the middle seat of the side where the cleaner sits. The deceased had received injuries on his head and neck. The informant asked the ST driver and conductor to take the deceased to a hospital. The deceased was declared dead on arrival. In pursuance of the report of the

first informant, Crime No.223 of 2018 was registered for the offence punishable under Section 302 of the IPC and sections 4, 25 and 27 of the Arms Act against the Applicant.

4. During the course of investigation, various panchnamas were drawn, the dead body was forwarded for post mortem, the blood samples, nail clippings of the deceased were preserved and sent for chemical analysis. The Applicant was arrested on the same day. During his medical examination, injuries were found on his person. The statements of witnesses including the bus driver and bus conductor were recorded. Investigation was concluded, chargesheet was filed. Case was committed to the Sessions Court. The Applicant pleaded not guilty and claimed to be tried. The prosecution examined 16 witnesses. No defence witnesses were examined by the Applicant. The defence of the Applicant was that of total denial and false implication.

5. On behalf of the Applicant it was contended that there were several material contradictions in the evidence of PW No.5 the bus conductor. Although, the PW No. 5 has deposed that a Test Identification Parade (TIP) was conducted, no such memorandum of parade was proved in evidence by the prosecution. It was submitted that the evidence of PW No. 5 does not inspire confidence since, he has contradicted PW No. 7 Pournima (sister of the deceased). He deposes that he did not see any female passenger along with the deceased boarding the bus. Whereas,

PW No. 7 categorically states, that she boarded the bus along with her brother and was a witness to the assault on her brother by the Applicant. He would submit that this creates a doubt as to whether the eye witness PW No. 7 is a natural witness or not. On behalf of the Applicant it was further contended that, in the absence of Test Identification Parade, the identity of the Applicant was not conclusively established.

6. Learned APP Mr. Khan, countered the aforesaid submissions by submitting that the evidence of the eye witness Pournima was not shattered during cross examination. The motive for the commission of offence has been narrated by various witnesses. The motive seems to be the animosity that the Applicant had towards Pradnya, the elder sister of the eye witness Pournima and the deceased. The witnesses had narrated prior instances where the Applicant had tried to defame Pradnya on social media and also harassed Pournima, for which their family had lodged a complaint against the Applicant. Our attention was also invited to the evidence of one of the relatives of the Applicant who states in his evidence that a few days prior to the incident, he had met the Applicant who had told him that he wanted to take revenge on Pradnya who had cheated him. Learned APP also pointed out the evidence of the informant who had reached the scene of the offence immediately after the incident. He saw that the bus was stopped at the distance of about one Kilometer from Khese Wasti. People were running helter-skelter. When the

informant went near the bus, he saw the bus conductor and driver were in a frightened condition and Pournima was crying near the bus. She narrated the incident to the informant. Learned APP has submitted that, even if PW No. 5, the bus conductor is to be disbelieved, the evidence of the informant PW No. 3 establishes the presence of witness Pradnya at the scene of the offence and hence, the testimony of Pradnya cannot be disbelieved. Most importantly, he submitted that the forensic evidence links the applicant with the offence. Blood of 'O Group' was found on the handle of the knife, shirt of the deceased and shirt of the Applicant. The Blood group of the deceased is of 'O Group' and that of the Applicant is of 'A Group'. The obvious inference is that the blood of the deceased was found on the shirt of the Applicant. The Applicant has in his statement under Section 313 of Cr.P.C., not given any explanation about this fact. According to the learned APP, the forensic evidence against the Applicant, in conjunction with the eye witness evidence, recovery of blood stained knife and blood stained clothes at the instance of the Applicant has established the prosecution case beyond reasonable doubt.

7. Appreciating rival submissions, following facts emerge. The evidence of PW No. 3 has to be read along with the evidence of PW No.7. PW No. 3 is the first informant who has reached the scene of the offence immediately after the incident. He states that, on 12.06.2018 he

was proceeding from Khese Wasti to his village to sell milk. On the way he saw one ST Bus stop at the distance of about a kilometer from Khese Wasti. Upon reaching there, he saw people were running helter-skelter and raising shouts. He saw the bus conductor and driver in a frightened condition. He saw his relative Pournima (PW No. 7), who was crying there. She narrated that Applicant had assaulted her brother Shrinath. When he entered the bus, he saw Shrinath lying on the seat of the bus having injuries on his head and neck. Although this witness has not seen either Pournima or the deceased Shrinath boarding the Bus at Khese Wasti, he has certainly seen her at the scene of offence, crying. The learned Counsel for the Applicant has assailed the evidence of PW No. 5 (bus-conductor), on the ground that, he does not speak about Pournima boarding the bus along with the deceased Shrinath. Even if the evidence of this witness i.e. (PW No. 5) is to be believed on the point of the eye witness Pournima not boarding the bus along with Shrinath, we cannot ignore the fact that PW No. 3 appears to be a natural witness whose evidence has not been eroded in the cross examination by the defence. In the light of the clear and cogent eye witness evidence of PW No. 7 (Pournima), PW No. 3 has certainly established her presence at the scene of offence. Hence, the credibility of her evidence cannot be doubted at this stage.

8. Three other circumstances implicate the Applicant. Firstly, the

recovery of a sack containing blood stained clothes, iron pipe, mobile handsets and blood stained knife at the instance of the Applicant from a place which *prima facie* does not seem to be open or accessible. Secondly, the injuries on the body of the Applicant. Medical Examination of the Applicant revealed injuries on his fingers. The injuries were opined to have been inflicted within 12 hours. PW No. 12, the Doctor who has examined the Applicant has deposed that these injuries are possible if a person is assaulting with a sickle like weapon. These injuries are unexplained. The Applicant has not offered any cogent explanation for the said injuries. Thirdly, the forensic evidence establishes the link between the offence and the offender. The ABO blood grouping of the deceased and the Applicant reveals that the blood group of the deceased is 'O' and blood group of the applicant is 'A'. As per the C.A report, blood of 'O' group is found on the shirt of the Applicant and the knife. Both these items were recovered at the instance of the Applicant. No explanation was forthcoming from the Applicant as to how the blood group of the deceased was found on the clothing and knife recovered at his instance.

9. In the light of the aforesaid discussion and considering the *prima facie* incriminating circumstances against the Applicant, in the backdrop of the gravity of the offence alleged against him, we find that this is not a fit case to grant bail to the Applicant and suspend his sentence pending

Appeal. Consequently, the Application for bail and suspension of sentence is rejected and disposed of accordingly.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.