

Rohit Ghuge

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4293 OF 2025
IN
CRIMINAL APPEAL NO. 269 OF 2026

Sushant Ramesh Ombale

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Salman Pathan, Advocate for the Applicant.

Mr. Tanveer Khan, APP for the Respondent-State.

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

DATE : **01st OCTOBER 2026.**

PC.

1. The Applicant who is arraigned as Accused No. 1 in the proceedings before the Trial Court has approached this Court seeking suspension of sentence imposed on him vide order and judgment dated 25.11.2024 convicting him for offenses punishable under Section 302 of the Indian Penal Code, 1860 (“IPC”) and bail pending Appeal. The Applicant was sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.30,000/-, in default of which to suffer rigorous imprisonment for one year for the offence punishable u/s 302 of the IPC.

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

3. The case of the prosecution is that, on the night of 10.07.2018, the Applicant and the deceased along with others were attending a party at the house of their friend. At the said party, the Applicant and the deceased got into a fight on account of a long standing dispute between them regarding the Applicant's relationship with PW No. 9. With the intervention of others, the said fight was resolved. However, the Applicant alongwith Accused Nos. 2 and 3 returned to the party. On opening the door, the persons at the party tried to pacify the Applicant and Accused Nos. 2 and 3, however, the Applicant pushed them and went inside. He picked up a beer bottle and stabbed the deceased near his throat. The deceased started bleeding heavily and therefore, he was taken to Sahyadri Hospital, Pune. PW No. 1- Informant's brother-in-law informed him that he got to know from PW No. 4 that the deceased was injured and taken to Sahyadri Hospital. PW No. 1 and his wife rushed to the hospital, where, they were informed that that the deceased had died and that he had suffered injuries near his throat. Therefore, on the same day, i.e. 10.07.2018, the informant- PW No. 1 lodged a complaint with the Kothrud Police Station on the basis of which C.R.No. 183/2018 came to be registered.

4. During the course of investigation, spot panchnama was conducted, memorandum panchanama was drawn, a glass forming part of the bottle was recovered against the present Applicant, CDR were obtained, CCTV footage was obtained, the dead body was forwarded for post mortem, broken glass and bottle samples were collected for forensic analysis. The Applicant was arrested on 10.07.2018. 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 14 witnesses. No defence witnesses were examined by the Applicant. The defence of the Applicant was that of total denial and false implication.

5. Learned Counsel for the Applicant contended that the Applicant was falsely implicated. It is the case of the Applicant that one of the eye witnesses i.e. PW No.2 called the mother of the deceased at about 4.10 am and another friend viz. PW No. 3 also called the mother of the deceased informing her that the deceased was injured and they requested her to send the Applicant and his brother to help them. Hence, the Applicant and his brother returned to the flat. The plea taken by the Applicant is that the deceased died due to the injuries suffered by accidentally falling on the broken glass beer bottle.

6. Learned APP Mr. Khan, countered the aforesaid submissions by submitting that the death is proved to be homicidal. That, there are 3 eye

witnesses who corroborated each other in material particulars with regard to the sequence of events wherein the Applicant assaulted the deceased with a broken beer bottle and caused his death. There is also a recovery of the weapon of offence i.e. broken glass of beer bottle at the instance of the Applicant which established his complicity in the offence.

7. The evidence on record indicates certain undisputed facts. It is not disputed that the Applicant was friends with the deceased and other persons including the three eye witnesses whose testimony forms an important incriminating circumstance against the Applicant. It is also not in dispute that the Applicant and PW No. 9 were in love relation and since the deceased had informed about this relationship to the uncle of PW No. 9, there was bad blood between the Applicant and the deceased. It is undisputed that on 09.07.2018, Applicant along with the deceased and other friends decided to have a party, purchased liquor and ordered food. They all then went to a flat of a common friend where they consumed liquor and food. It is not in dispute that the Applicant was dropped at his residence by PW No. 3 and 5. The medical evidence clearly suggests that the deceased died due to injuries to his neck and other vital organs, his carotid artery and right jugular veins were cut leading to profuse bleeding which according to PW No.10, the post mortem doctor were possible by the broken glass of beer bottle which was used in the offence. It is also common ground that the Applicant had

suffered an injury to his hand which, according to PW No.11, the doctor who examined the Applicant was possible when a person tries to bang a beer bottle on a hard surface

8. What is disputed is whether the Applicant came back to the scene of offence along with his brother and a friend, barged into the room, broke two beer bottles and with the broken edge, assaulted the deceased on his neck, thereby causing his death. In this backdrop, the evidence of three eye witnesses viz. PW Nos. 2, 3 and 4 assume significance. PW No. 2 has narrated the events before the occurrence of the incident and how ultimately on the night of 09.07.2018, the Applicant along with his friends (including the eye witnesses) went to the flat of a common friend to have liquor and food. After about 12.30 in the night, after consuming liquor, there was an altercation between the deceased and the Applicant over some old dispute, leading to the Applicant abusing the deceased which escalated into a scuffle between the two. PW Nos. 2, 3 and 4 intervened and separated the two. PW No. 2 tried to pacify the Applicant but he was enraged and in no mood to listen. He was punching and kicking the wall. Finally, PW Nos. 3 and 4 forcibly took the Applicant out of the premises and brought him to his house in car. They came back to the place of the common friend where the party was on at about 3.30 am. In the meantime, the Applicant's mother called PW No. 2 and asked him whether there was a quarrel and also told him that the

Applicant along with his brother were coming back to the same place. Thereafter, he heard a knock on the door. The Applicant and his brother were standing outside. The Applicant said that he would now not spare the deceased. Sensing danger, PW No. 4 and 3 rushed to prevent the Applicant from going any further, but, the Applicant pushed his way inside the flat. The Applicant then took two beer bottles, banged them against each other and stabbed the deceased near his throat with the broken end of the beer bottle. PW No. 2 took the Applicant aside. The deceased was bleeding profusely. Thereafter, the PW No. 2 and others put the deceased in a car and took him to the hospital after informing the uncle of the deceased i.e. the first informant about the incident. The other two eye witnesses have also described the incident and corroborated PW No. 2 in material particulars. Although, there are minor omissions and contradictions inter se between the witnesses, they are not of much consequence and do not demolish the credibility of these witnesses. The recovery of the broken beer bottle at the instance of the Applicant further strengthens the case of the prosecution against him. The fact that the Applicant returned back to the scene of the offence with pre-meditation and caused the death of the deceased is also a factor which *prima facie* contributes to the incriminating circumstances against the Applicant.

9. In the light of the aforesaid discussion and considering the 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.