

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1387 OF 2022 IN
CRIMINAL APPEAL NO. 1136 OF 2019**

Bobdya @ Golya @ Lakhan Deelip Marathe Applicant

Versus

The State of Maharashtra Respondent

Mr. A. K. Bhosle, advocate for the applicant
Mr. K. S. Patil, APP for the Respondent.

**CORAM : V. M. DESHPANDE AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 21st April, 2022.

PC :

1 This is an application for suspension of substantive jail sentence and for grant of bail.

2 The applicant stands convicted along with five other accused persons by the learned Sessions Judge, Jalgaon in Sessions Case No. 106 of 2015. By the judgment dated 02.11.2019, the applicant stands convicted for the offence punishable under Section 302 read with Section 120-B/149 of the Indian Penal Code and directed to suffer life imprisonment. He is also convicted along with other accused persons for the offence punishable under Section 307 read with Section 120-B/149 of the Indian Penal Code. He is also convicted for the offence punishable under Section 143 read with Section 149 of the Indian Penal Code. For

the offence punishable under Section 307, the sentence, that was imposed on the applicant, is rigorous imprisonment for five years and to pay fine of Rs.5000/-.

3 We have heard Shri A. K. Bhosle, learned Counsel for the applicant and Shri K. S. Patil, learned A. P. P. for the Respondent-State. We have also gone through the relevant evidence and the documents, which are part and parcel of the paper book, for consideration of the present application.

4 The appeal is already admitted.

5 Learned Counsel for the applicant submits that this Court has already release two co-accused Sagar Vasudeo Patil and Sonya @ Sonu @ Lalit Ganesh Chaudhari on 28.07.2020. He submitted that if the First Information Report Exhibit-103 and the evidence of P. W. 1 Bhushan Suresh Patil – real brother of the deceased, who has lodged the First Information Report is perused, it is clear that the prosecution case is not alleging that this applicant had assaulted on deceased Chandrakant and the role attributed to the present applicant is that he assaulted on Bhushan's father Suresh (P. W. 3) for which he was convicted for the offence punishable under Section 307 of the Indian Penal Code.

6 The applicant is in jail from 15.05.2015. After having gone through the contents of the oral report (Exhibit-103) and the evidence of P. W. 1 – Bhushan, it is crystal clear that deceased Chandrakant was assaulted by co-accused Chingya. The role attributed in the free fight, that took place in between deceased Chandrakant and the accused persons, is that at that time, present applicant has given a stab blow on Suresh (P. W. 3).

7 Though the paper book is ready, it appears that much older appeals are pending and awaiting their turn for final hearing. The applicant is in jail from 15.05.2015 and since it is not the prosecution case that he has assaulted on the deceased, in our view, the application of the applicant can be considered favourably.

8 Resultantly, we pass the following order:

(i) The judgment and order of conviction and sentence dated 02.11.2019, passed by the learned Sessions Judge, Jalgaon, in Sessions Case No. 106 of 2015, shall stand remain suspended *qua* the present applicant.

(ii) The applicant Bobdya @ Golya @ Lakhan Deelip Marathe be released on bail on he executing a Personal bond of Rs. 5000/- (Rs. Five Thousand) with one solvent surety for the like amount.

(iii) The applicant is directed to attend M. I. D. C. Police Station, Jalgaon, once in three months to mark his presence.

(iv) That the applicant is directed to deposit entire fine amount. If the fine amount is not already deposited, the learned Judge, who will be ultimately issuing the release warrant, shall ensure that the entire amount of fine is deposited.

(v) The applicant is directed to remain present personally before this Court at the time of final hearing of the appeal.

9 With these observations, Criminal Application is accordingly allowed and disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V. M. DESHPANDE)
JUDGE

adb