

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

CRIMINAL APPLICATION NO.3786 OF 2022
IN
CRIMINAL APPEAL NO. 360 OF 2021
WITH
CRIMINAL APPEAL NO. 360 OF 2021
WITH
CRIMINAL APPEAL NO. 224 OF 2021

ANKUSH SIDDHARTH TARU
VERSUS
THE STATE OF MAHARASHTRA

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Ms. Ashwini A. Lomte h/f. Mr. S.J. Salunke, Advocate
for the Applicant.

Mr. S.P.Deshmukh, APP, for the Respondent – State.

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**CORAM : R.G. AVACHAT &
R.M. JOSHI, JJ**

DATE : DECEMBER 02, 2022.

PER COURT :

1. Heard.
2. This is an application under Section 389 of Code of Criminal Procedure, 1973. The applicant has been convicted for offence punishable under Sections 302 r/w. 149, 341 r/w. 149, 143 r/w. 149, 144 r/w. 149, 147 r/w. 149 & 148 r/w. 149 of Indian Penal Code, and was sentenced to suffer life imprisonment.
3. The applicant has been under trial prisoner.

He has been in jail since 05.06.2018. The evidence of eye witnesses who have given evidence against present applicant and co-convicts has been considered by this Court while granting relief to co-convict. Similar treatment needs to be given to the present applicant. Admittedly the knife which was seized on the disclosure statement made by the applicant was sent to CA for analysis and report. The CA report, however, indicates no blood stains noticed on the knife. As such, recovery of the knife at the instance of applicant could not be incriminating circumstance to connect him to the crime in question.

4. Based on the eye witnesses account, co-convicts has been granted suspension of sentence. We are, therefore, inclined to allow the application as under:

O R D E R

(i) Criminal Application is allowed in terms of prayer clause 'B'.

(ii) Pending the appeal, the substantive sentence of imprisonment imposed by the trial Court is

suspended. The applicant be released on bail on his executing P.R. bond in the sum of Rs. 15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(iii) Bail before the trial Court.

(R.M. JOSHI, J.)

(R.G. AVACHAT, J.)

Malani