

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.2158 OF 2022
IN
CRIMINAL APPEAL NO.678 OF 2022**

Sarjerao Ananda Hujare Applicant
versus
State of Maharashtra Respondent

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- Mr. Akshay Bhangakpur a/w Akshata B. Desai, Advocate for Applicant.
- Smt. Veera Shinde, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 28th JULY, 2022**

P.C. :

1. This is an application for bail pending final disposal of the Appeal.
2. The Applicant was convicted for commission of offence punishable u/s 306 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.5,000/-, in default of payment of fine to suffer further rigorous imprisonment for one year. He was also convicted for commission of offence punishable u/s 342 of the Indian Penal

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Code and was sentenced to suffer simple imprisonment for one year and to pay a fine of Rs.1,000/-, in default of payment of fine to suffer further simple imprisonment for six months. He was also convicted for commission of offence punishable u/s 323 of the Indian Penal Code and was sentenced to suffer simple imprisonment for one year and to pay a fine of Rs.1,000/-, in default of payment of fine to suffer further simple imprisonment for two months. He was also convicted for commission of offence punishable u/s 504 of the Indian Penal Code and was sentenced to suffer simple imprisonment for one year and to pay a fine of Rs.1,000/-, in default of payment of fine to suffer further simple imprisonment for two months. He was also convicted for commission of offence punishable u/s 506 of the Indian Penal Code and was sentenced to suffer simple imprisonment for two years and to pay a fine of Rs.2,000/-, in default of payment of fine to suffer further simple imprisonment for six months. All the sentences were directed to run concurrently.

3. Heard Mr. Akshay Bhangakpur, learned counsel for the Appellant and Smt. Veera Shinde, learned APP for the State.
4. The prosecution case is that the FIR was lodged by one Sagar Rajaram Misal, who is examined as P.W.5. He has stated that, on 10/05/2017, he heard shouts from the house of the Applicant. He went there. He saw that his brother Vaibhav's legs were tied. The Applicant had tied Vaibhav's legs. Vaibhav was shouting. He told P.W.5 that the SIM card of one Nipun was returned and the mobile handset would be returned on the next morning. The Applicant was not satisfied with this and he threatened Vaibhav. In the same night Vaibhav committed suicide by hanging himself. The prosecution case is that because of the humiliation and threats Vaibhav committed suicide.
5. Learned counsel for the Applicant invited my attention to the deposition of P.W.3 Nilesh Tanaji Khot. He was from the same village. He has deposed in his cross examination that in the past also Vaibhav had attempted to commit suicide on two occasions. Learned counsel therefore submitted that Vaibhav had

suicidal tendency. The act of the Applicant alleged by the prosecution will not fall within the meaning of section 107 r/w 306 of the Indian Penal Code and therefore he deserves to be released on bail. He further submitted that the maximum punishment imposed is five years and the Appeal is not likely to be heard within a reasonable time before that period is over.

6. Learned APP opposed this application. She submitted that there are independent witnesses to the incident of beating and therefore there is direct connection to the commission of suicide.

7. I have considered these submissions. One more submission of learned counsel for the Applicant is to be taken into consideration that the FIR was lodged much belatedly on 07/06/2017 whereas the incident had taken place on 11/05/2017. This delay has not been satisfactorily explained. Apart from that, there is some substance in the submissions of learned counsel for the Applicant that the deceased had

displayed his suicidal tendency and there is no serious dispute that he had taken someone else's mobile phone and had not returned it and that he was beaten on that account. Whether such beating displays intention for attracting section 107 r/w 306 of the IPC will have to be examined. However, all these factors will have to be decided at the final hearing stage. The maximum punishment imposed is five years. The Appeal is not likely to be heard within that period. Therefore on this account also, the Applicant deserves to be released on bail.

8. Hence, the following order :

ORDER

- (i) During the pendency and final disposal of the Appeal No.678 of 2022, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- with one of two sureties in the like amount.
- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)