

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

**INTERIM APPLICATION NO.2891 OF 2022
IN
CRIMINAL APPEAL NO.871 OF 2022**

Milind Ashok Gandale Applicant

versus

State of Maharashtra & Anr. Respondents

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- Ms. Pooja Agarwal and Suyash Khose i/b. Siddheshwar Khawale a/w Prakash Chavan, Advocate for Applicant.
- Smt. M. R. Tidke, APP for the State/Respondent No.1.

**CORAM : SARANG V. KOTWAL, J.
DATE : 05th SEPTEMBER, 2022**

P.C. :

1. This is an Application for bail during pendency and final disposal of the Criminal Appeal No.871 of 2022. The Applicant faced the trial vide Sessions Case No.43 of 2014 before the Additional Sessions Judge Pune along with three others. At the conclusion of the trial the Applicant and others were convicted for the commission of offence punishable u/s 307 r/w 34 of the Indian Penal Code. They were sentenced to

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suffer rigorous imprisonment for 7 years and to pay a fine of Rs.25,000/- each and in default of payment of fine to suffer simple imprisonment for one month each.

2. Heard Ms. Pooja Agarwal, learned counsel for the Applicant and Smt. M. R. Tidke, learned APP for the State.
3. Learned counsel for the Applicant submitted that he was on bail during the trial. He has not misused the liberty. All the other co-accused were granted bail pending Criminal Appeal No.843 of 2022 pending before this Court vide order dated 24/08/2022 passed in Interim Application No.2787 of 2022. She submitted that the Applicant's case is better than the case of other co-accused for releasing him on bail pending the Appeal.
4. Learned APP though opposed this Application, could not counter the argument that the Applicant's case is better than the other accused.

5. I have considered these submissions. The prosecution case is based on the evidence of the victim Yuvraj Godse, who is examined as P.W.1. He has deposed during his examination-in-chief that the accused Chirag Kamble assaulted him on his head with a sickle, Danny Kamble stabbed knife in his stomach and Sagar Kamble assaulted on his legs by sickle. There is general statement against the Applicant that he had also assaulted him. The other eyewitness P.W.2 Ajay Godse was brother of the P.W.1. Besides describing the specific role against the others with specific weapons, there is statement in his deposition that the Applicant was beating P.W.1 with his hands. His role is lesser than the other co-accused who are granted bail pending the Appeal. Apart from these two main witnesses, there were three independent eyewitnesses P.W.5, P.W.7 and P.W.8 who had turned hostile. Therefore the prosecution case depends upon the evidence of P.W.1 and P.W.2 as well as the medical evidence. Dr. Baburao Dinkar Melkunde is examined as P.W.6, who had examined the P.W.1 for his injuries. He has deposed that all the injuries were simple in nature. Based on his observations, the

other co-accused were granted bail pending the Appeal. Therefore the Applicant also deserves to be released on bail pending the Appeal.

6. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.871 of 2022, the Applicant is directed to be released on bail on his furnishing PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.
- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)