



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.3223 OF 2023
IN APEALST/8921/2023**

**KHADIR YOUSUF SHAIKH
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Anil P. Basarkar (**Absent**)
APP for Respondent – State : Mr. A. M. Phule
...

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 5th OCTOBER, 2023

PER COURT :

1. At the first call at 10.30 a.m. and second call at 12.10 p.m., learned Advocate for the applicant was absent and, therefore, the matter was kept in the afternoon session.
2. Again at the third call at 2.30 p.m. in second session, learned Advocate for the applicant is absent. It has been informed to this Court that the Bar Association has called out a strike.
3. Present application has been filed for getting delay of 45 days condoned in filing the appeal.
4. Learned APP waives notice on behalf of respondent.
5. Present applicant/appellant is the original accused no.1

in Sessions Case No.7 of 2020, who has been convicted by learned Additional Sessions Judge, Omerga on 12.05.2023 after holding him guilty of committing offence punishable under section 302 of Indian Penal Code (IPC). He has been sentenced to suffer imprisonment for life and to pay fine of Rs.5000/-, in default to suffer simple imprisonment for six months.

6. It can be seen that present accused came to be arrested on 20.12.2019 and it appears that he was never released on bail.

7. The present Advocate was required to be appointed through Legal Aid to represent the applicant, and therefore, for the reasons stated in the application, the delay stands condoned. Application stands allowed and disposed of.

8. Registry is directed to verify and register the appeal.

9. Since the appeal is the right of the appellant and we feel that the arguable points have been raised in view of the grounds taken in the appeal memo, appeal stands **admitted**.

10. Call Record and Proceedings with paper book.

11. It can be seen from the impugned judgment that, the compensation has been directed under section 357(1) of the Code of Criminal Procedure to the mother of deceased Dilip Shinde, and

therefore, we direct the applicant/appellant to add her as a party respondent in view of the decision in *Emperor Vs. Chunilal Bhagwanji*, reported in *AIR (29) 1942 Bombay 205(1)*. So also the other office objection, except that the *Vakalatnama* is not filed, be complied with.

12. Amendment to be carried out within a period of two weeks. Thereafter, issue notice to the added respondent. Notice of the added respondent and receipt of the Record and Proceedings with paper book to be made returnable on 11.12.2023.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)