

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

**INTERIM APPLICATION NO.2199 OF 2021
IN
CRIMINAL APPEAL NO.525 OF 2018**

Sumeet Kailash Tiwari ..Applicant/Appellant No.1
Versus
The State of Maharashtra ..Respondent

Mr. Ramesh Dube-Patil a/w Advait Kulkarni i/by Jay & Co., for the
Applicant/Appellant No.1.
Smt. G. P. Mulekar, APP for the Respondent/State.

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ.**

DATE : 23rd JANUARY, 2023

PC.

1. The applicant/accused No.2 along with his real brother/
accused No.3 was convicted vide judgment and order dated 22nd
March, 2018 delivered in Sessions Case No.79 of 2015 for an
offence punishable under Section 302 of the IPC, whereby the
applicant is sentenced to life imprisonment.

2. The prosecution story appears to be of enmity between
family of the deceased and the applicant on the issue of cultivation
of land.

3. It appears that the accused persons went to the house of

deceased and assaulted him with wooden stick/log and spade. The applicant herein is alleged to have used wooden stick to cause injury to the deceased and also one more victim.

4. As far as the other victim is concerned, who is examined as PW-7 was never inquired by police authorities during the investigation.

5. The cumulative effect of the evidence of the doctors viz. PW-9/Dr. Swapnil, a General Surgeon, Dr. Swati, a practicing doctor with Six Sigma Hospital, Dr. Pritam/PW-11 who is posted as Medical Officer at Rural Hospital, so also Dr. Chittaranjan, who has performed postmortem does not in categorical terms implicates applicant who allegedly used weapon as stick in the commission of crime. Even if the applicant is convicted for an offence punishable under Section 307 of the IPC, as has been observed by this Court while rejecting the prayer for bail on 3rd April, 2019, this Court is required to be sensitive to the fact that applicant is behind the bars for more than five years.

6. As far as the use of weapon is concerned, it is brought on record in the evidence of the complainant, an eye witness and another eye witness who happened to be son of the deceased that it was accused No.3 who is armed with spade caused life threatening injuries. In the aforesaid background, a case for bail is made out.

7. The application as such stands allowed.
8. Applicant is directed to be released on bail on executing PR bond of Rs.25,000/- with one or two sureties in the like amount.
9. Applicant shall not contact witnesses in any manner whatsoever.
10. Applicant shall also remain outside the jurisdiction of concerned police station till the hearing of the appeal is concluded.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]