

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

**INTERIM APPLICATION NO.2775 OF 2022
IN
CRIMINAL APPEAL NO.162 OF 2016**

Bharat Ravji Shinare ..Applicant/Appellant
Versus
The State of Maharashtra ..Respondent

**WITH
CRIMINAL APPLICATION NO.304 OF 2016
IN
CRIMINAL APPEAL NO.162 OF 2016**

Arvind Govind Thombre ..Applicant

IN THE MATTER BETWEEN

Bharat Ravji Shinare ..Applicant
Versus
The State of Maharashtra ..Respondent

**WITH
CRIMINAL APPEAL NO.173 OF 2016**

Arvind Govind Thombre ..Appellant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Nitin Sejpai a/w Akshata B. Desai, for the Applicant/Appellant
in IA No.2775/2022.

Mr. A. R. Kapadnis, APP for the Respondent/State.

Mr. Amey Deshpande, for the Appellant in Appeal No.173/2016.

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

DATE : 1st FEBRUARY, 2023

PC.

1. In Sessions Case No.98 of 2012, Additional Sessions Judge, Raigad-Alibag convicted the Applicant/appellant for an offence punishable under Section 302 of IPC and under other allied sections and sentenced him to suffer life imprisonment by judgment and order dated 20th January, 2016.

2. Our attention is invited to the testimony of PW-1 and PW-4 who are eye witnesses to the incident, so also PW-9/Dr. Pratyush who has performed postmortem of the deceased.

3. The fact remains that the applicant was arrested on 11th May, 2012 and has almost completed ten years of his imprisonment.

4. The role attributed to the applicant is that of giving single blow by sword, however, the sword recovered at the instance of the applicant is informed to have been not carrying blood stains as reflected from the report of the chemical analyzer.

5. The cause of death cited in the postmortem report is head injury, polytrauma, hemorrhage and shock.

6. One of the ground canvassed for grant of relief under Section 389(1) of the CrPC is that of suffering of incarceration by applicant/appellant for a period of almost ten years. Reliance is placed on the order of Apex Court in the matter of ***Suleman Vs. State of Uttar Pradesh.***

7. Though the prayer for suspension of sentence and bail is objected by the learned APP Mr. A. R. Kapadnis assisted by learned counsel for the complainant by relying on the testimony of PW-1 and PW-4 who are eye witnesses, however, this Court is required to be sensitive to the directions of the Apex Court in the matter of *Suleman (cited supra)*. The fact remains that the appeal is of the year 2016 and is not likely to be heard in recent future considering the pendency. Apart from above, applicant/appellant having completed incarceration for a period of ten years and the case in which he is convicted is of single blow, we feel appropriate to grant relief under Section 389(1) of the CrPC. The sentence is suspended.

8. Applicant is directed to be released on bail on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount.

9. Applicant must report to the Neral Police Station in first week of every English calendar month till conclusion of hearing of appeal and shall not try to establish any contact with the witnesses.

10. Applicant shall also furnish his address and contact number to the Police Station officer, Neral Police Station.

11. Interim Application No.2775/2022 stands allowed in above terms.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]