

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

**CRI-INTERIM APPLICATION NO. 4445 OF 2022
WITH
CRI-INTERIM APPLICATION NO. 4446 OF 2022
In
CRI. APPEAL NO. 1011 OF 2022**

Machhindra Piraji Suradkar
V/S

....Applicant

State of Maharashtra

....Respondent

**WITH
CR. APPEAL NO. 189 OF 2023**

Rajendra Devidas Shirsath Alias Raju & Anr.Appellants
V/S

State Of Maharashtra

....Respondent

Mr. Sagar Kasar a/w. Adv. Chaitali Bhogle for the Applicant in both the
IA

Mr. S. V. Gavand, APP for the Respondent-State.

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

DATED : 10th OCTOBER, 2023

P.C.:

1. The IA/4445/2022 for suspension of the sentence and the
IA/4446/2022 for grant of bail are filed by the Applicant/Accused No.

2 u/s. 389 of Cr.P.C.

2. The Applicant came to be convicted by the judgment and order
dated 08/09/2022 passed by the Additional Sessions Judge, Malegaon
in Sessions Case No. 96 of 2011. The Applicant is sentenced to life

imprisonment for an offence punishable u/s. 302 of IPC.

3. The genesis of the offence is based on the kerosene provided by the Applicant to the main accused - Popat Shinde who has set ablaze the Additional Collector. According to him, the co-accused-Kunal assaulted the Additional Collector with tommy (sort of a spanner) on the head. As such, according to him, the death of the Additional Collector might have been because of the head injury. His further contentions are, considering the restrictive role attributed to the Applicant, he deserved to be released on bail as he was on bail during the Trial.

4. While countering the aforesaid submissions, Mr. Gavand, learned APP invited our attention to the testimony of the sole eye witness, P.W. No. 2, driver of the vehicle in which the deceased was traveling. According to him, the cause of the death as reflected in the post-mortem report is, "death because of burn injuries".

5. As such, he has sought rejections of the Interim Applications.

6. With the assistance of respective Counsels, we have perused the testimony of P.W. No. 2. P.W. No. 2 in categorical words has stated that the act of the Applicant is of making available kerosene to co-accused - Popat Shinde on his call who has poured the same on the body of the Additional Collector and set him ablaze. Popat Shinde

also died due to burn injuries as the kerosene also fell on his body.

7. In case if the Applicant would not have provided kerosene, life of Additional Collector could have been saved.

8. It is an admitted fact borne out of the records that the Additional Collector has died because of burn injuries.

9. Apart from the above, the criminal act attributed to the Applicant is also of chasing the other witnesses after the Additional Collector was set on fire, sufficiently speaks of his criminal mind and intention.

10. The statement made by Mr. Gavand, learned APP that the Applicant was released on bail as charge-sheet was not submitted within the statutory period, is accepted. As such, the said fact cannot be considered to the benefit of the Applicant as he is convicted by the Trial Court after appreciating the evidence.

11. That being so, no case for suspension of sentence or bail is made out.

12. Both the Interim Applications stand disposed of.

(N. R. BORKAR, J)

(NITIN W. SAMBRE, J.)