

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

**INTERIM APPLICATION NO.2649 OF 2024
IN
CRIMINAL APPEAL NO.390 OF 2020**

Vishal Kisan Chavan

.... Applicant

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Priyal G. Sarda a/w Shubham Sane, Advocate for Applicant.
- Ms. Ranjana D. Humane, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 11th JULY, 2024**

P.C. :

1. This is an application for bail pending final disposal of the Appeal preferred by the Applicant. The Applicant was the original accused No.2 in Sessions Case No.69 of 2024 before the Additional Sessions Judge, Pune. Learned Judge vide the Judgment and Order dated 27/02/2020 convicted the Applicant and the co-accused i.e. the original accused No.1 Shankar Shirke, for commission of offence punishable u/s 326 r/w 34 of

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the Indian Penal Code and sentenced them to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.10,000/- and in default of payment of fine to suffer rigorous imprisonment for six months. There were also convicted u/s 504 r/w 34 of the Indian Penal code, for which they were sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.2,000/- and in default of payment of fine to suffer rigorous imprisonment for one month.

2. Heard Mr. Priyal G. Sarda, learned counsel for the Applicant and Ms. Ranjana D. Humane, learned APP for the State.
3. This is the second time, that the Applicant is seeking his release on bail pending his Appeal. On the first occasion, he had filed Interim Application No.1199 of 2020 in Criminal Appeal No.390 of 2020 for his release on bail. That application was a joint application by the Applicant and his co-accused Shankar Shirke. That application was allowed to be withdrawn

as reflected in the order dated 19/01/2022 passed by co-ordinate bench (Coram : Prithviraj K. Chavan, J.).

4. Now the learned counsel for the Applicant submits that there is change in circumstances because more than 2 years have passed since then and the Applicant is in custody for 2 years and 4 months, out of the total 7 years and thus there is change in circumstances. The application be considered.
5. Learned counsel further submitted that initially the charges were framed u/s 304 of the IPC, but both the accused were acquitted from that charge and were convicted as mentioned hereinabove. Both the Applicants have preferred a common Appeal i.e. Criminal Appeal No.390 of 2020, which is pending before this Court. He submitted that the Applicant as of today has completed 2 years and 4 months out of the sentence of 7 years imposed on him. He further submitted that though section 34 of the IPC is applied, the allegations against the

Applicant are that he had assaulted the victim only with kicks and fists blows. The accused had not used any weapon.

6. Learned APP opposed these submissions. She relied on the evidence of the victim as well as the injuries suffered by him, which are deposed by the Medical Officers. In view of the application of section 34, the Applicant is liable to be convicted for the principal offence similar to the Accused No.1.

7. I have considered these submissions. The incident has occurred on 01/09/2023. There was previous enmity between the victim Suresh Jadhav and the accused No.1 because of some car accident. On the date of incident, both the Applicants confronted him. The accused No.1 assaulted him with an iron rod on his head, both legs and both the hands. The victim had suffered six injuries. Five injuries are CLWs and the 6th injury is contusion over left shoulder. CLWs are on the head, legs and hands. However, I find substance in the submissions of learned counsel for the Applicant that he had not used any weapon. It

was used only by Accused No.1. The offence is old. The incident had occurred in the year 2013. The Applicant was on bail during trial. There are no allegations that he had misused that liberty. He was in custody for 2 years and 4 months out of the major sentence of 7 years. The Appeal is not likely to be decided during a reasonably short period. In this view of the matter, the Applicant can be released on bail pending Appeal.

8. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.390 of 2020, the Applicant is directed to be released on bail on his furnishing P.R. 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.)