

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

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**INTERIM APPLICATION NO.3539 OF 2024
ALONG WITH
CRIMINAL APPLICATION NO.143 OF 2019
IN
APPEAL NO.810 OF 2018**

Chetan @ Bultya Durgya Pawar .. Applicant/Appellant
Versus
State of Maharashtra .. Respondent

**WITH
APPEAL NO.474 OF 2018**

Sunil Zumbarya Kale @ Bapu .. Appellant
Versus
State of Maharashtra .. Respondent

Mr. Anush Shetty i/by Dr. Yug Mohit Chaudhary for the applicant/
appellant.

Mr. V. B. Konde Deshmukh, Addl. Public Prosecutor for the State.

Ms. Chaitrali A. Deshmukh for the respondent in Criminal Appeal
No.474 of 2018.

**CORAM : M. S. Sonak &
Jitendra Jain, JJ.
DATE : 8th October 2024**

PC:-

1. Heard Mr Shetty for the applicant and Mr Konde Deshmukh,
learned Additional Public Prosecutor for the State.
2. This application seeks the suspension of sentence and the

applicant's release on bail pending the applicant's Criminal Appeal No.810 of 2018 challenging his conviction under Sections 302, 306, read with 34 of the Indian Penal Code (IPC).

3. Admittedly, the co-accused, Sunil Kale, also instituted Criminal Appeal No.474 of 2018, challenging his conviction under the same sections concerning the same incident.

4. By order dated 19 August 2024, Interim Application No.1728 of 2024 instituted by Sunil Kale was disposed of, and Sunil Kale was enlarged on bail.

5. The applicant has filed this application, among other things, claiming parity. The learned counsel for the applicant pointed out that the applicant's case is on better footing than Sunil Kale's. He submitted that Sunil Kale had suffered several injuries on his person, which were, prima facie, not accounted for by the prosecution. He submitted that the present applicant has also suffered five stab injuries on his person, which have similarly not been accounted for or explained by the Prosecution.

6. The learned Additional Public Prosecutor has opposed the grant of bail by submitting that this is not a case of absolute parity. He submitted that there is a difference or degree regarding the involvement of the two accused persons.

7. We have considered the rival contentions and examined the material on record. The reasons that prompted us to release Sunil Kale on bail also apply to the present applicant's case.

8. One of the grounds that persuaded us to release Sunil Kale on bail was the several injuries on his person, which were not accounted for by the Prosecution. The record shows that the present applicant also suffered almost five stab injuries, which again have not been accounted for by the prosecution. In such cases, the Prosecution needs to explain the injuries to the accused person.

9. The applicant has suffered incarceration for almost eight years and six months. Considering the pressure on this Court's docket, the possibility of an appeal being disposed of at an early date is bleak. Therefore, by applying the principle of parity and considering the role played by both the accused persons in the crime for which they are convicted, we are satisfied that a case has been made out for suspending the sentence qua the present applicant on his enlargement on bail subject to certain conditions. Since detailed reasons have already been given in the order dated 19th August 2024 disposing of Interim Application No.1728 of 2024, we are not repeating the same in this order.

10. Accordingly, by adopting the reasoning in the order dated 19th August 2024 disposing of Interim Application No.1728 of 2024, we dispose of the interim application by making the following order:-

ORDER

- (a) Sentence imposed upon the applicant is suspended, and the applicant is enlarged on bail subject to furnishing PR Bond of Rs.25,000/- along with one surety in the like amount to the satisfaction of the concerned Sessions Court.
- (b) The applicant must report to the Tasgaon Police Station, Taluka

Tasgaon, Dist Sangli, on the first Monday of each month and mark his presence;

- (c) The applicant must not attempt to interfere with any of the victim's family members or otherwise exert any pressures on them or indulge in any criminal activities;
- (d) The applicant must file an undertaking in this Court within two weeks to attend the Court when the appeal is taken up for hearing.

11. This application is disposed of in the above terms without any cost orders.

12. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J.)

(M. S. Sonak, J.)