



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 405 OF 2025
IN APPEAL/78/2025**

**SAKHARAM NARAYAN KUMBHKARAN
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. Joydeep Chatterji, Advocate for the applicant.
Mr. S.R. Wakale, A.P.P. for respondent-State.

...

**WITH
CRIMINAL APPLICATION NO. 441 OF 2025
IN APPEAL/82/2025**

**AVINASH VYANKATRAO SHINDE
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. Nilesh S. Ghanekar, Advocate for the applicant.
Mr. S.R. Wakale, A.P.P. for respondent-State.

...

**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 21 AUGUST 2025

Per Court :

1. Both the applicants, who are convicted by learned Additional Sessions Judge, Nanded in Special Atrocity Case No. 7 of 2019 under Sections 302, 452 read with Section 34 of the Indian Penal Code, seek suspension of their substantive sentence of life imprisonment.
2. The appellants were charged for commission of murder of deceased Dinkar Shewale on 26.12.2017.

3. In support of its case prosecution examined 14 witnesses and the trial Court has convicted both the applicants as aforesaid.

4. Heard learned advocates for the applicants and learned APP for the State.

5. Learned advocates for the applicants strenuously submit that evidence of eye witness is not reliable. Her identification of both the applicants cannot be relied upon as both the applicants were shown to her in the police station. Though PW-5 was taken by lady police constable for recording her statement under Section 164 of the Code of Criminal Procedure, she has denied the same in her evidence. Therefore, she is not at all telling truth before the Court and hence her evidence should be discarded. It is further submitted that the case is based on circumstantial evidence and the prosecution has failed to prove the complete chain of circumstances. The applicants are behind bar since 26.12.2017 and appeals are not likely to be heard in near future. Therefore, they may be released on bail.

6. Per contra, learned APP has vehemently opposed the applications submitting that there is overwhelming evidence against the applicants which is properly appreciated by the

trial Court and the applicants, therefore, do not deserve to be released on bail.

7. With the assistance of learned advocates and learned APP, we have perused the record. The record shows that PW-5 is the witness on the point of last seen theory. She has proved that both the applicants were lastly seen with the deceased and they have committed murder of the deceased. Both the applicants/accused, after commission of offence, have surrendered before the police. Their blood stained clothes were seized. On their clothes blood of group 'A', which is of the deceased, was found. The deceased had sustained 97 injuries. Murder weapons were seized from the spot. Finger prints of accused No.2 were found on the spot of incident.

8. Considering the overwhelming evidence connecting the applicants with the crime, *prima facie*, we are of the view that the trial Court has rightly convicted the applicants and merely because the applicants have undergone 7 ½ years of incarceration, they are not entitled to be released on bail.

9. The applications, being devoid of merits, are dismissed.

(SANDIPKUMAR C. MORE)
JUDGE

(NITIN B. SURYAWANSHI)
JUDGE