



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

**CRIMINAL APPLICATION NO. 676 OF 2025
IN APEAL/1145/2023**

Sharad Govind Khile

....Applicant

VERSUS

The State Of Maharashtra

.....Respondent

.....

Mr. N.S. Ghanekar., Advocate for Applicant

Mr. S.D. Ghayal, APP for Respondent

Mr. Mukul Kulkarni, Advocate for informant/Assist to PP

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**CORAM : NITIN B. SURYAWANSHI &
MANJUSHA DESHPANDE, JJ.**

DATE : 25th MARCH, 2025

ORDER :

1. By this application, applicant seeks suspension of his substantive sentence imposed by learned Additional Sessions Judge, Dhule in Sessions Case No. 79 of 2016 vide judgment and order dated 08.11.2023, thereby convicting and sentencing the applicant as follows:

Sr. No.	Under Section	Sentence
1.	302 r/w. 149 IPC	Imprisonment for Life and fine of Rs. 5,000/- each, in default, simple imprisonment for period of six months each.
2.	324 r/w. 149 IPC	Rigorous Imprisonment for One Year each.
3.	341 r/w. 149 IPC	Simple Imprisonment for One Month each.

4.	143 r/w. 149 IPC	Simple Imprisonment for Three Months each.
5.	147 r/w. 149 IPC	Simple Imprisonment for Six Months each.
6.	148 r/w. 149 IPC	Simple Imprisonment for Six Months each.

2. Learned advocate for applicant submits that co-convict Nandu Govind Khile and Deepak Govind Khile are released on bail by this Court and therefore on the ground of parity applicant also may be released on bail.

3. Learned APP and learned advocate representing the informant strenuously opposed the application stating that merits will have to be considered and period of incarceration cannot be the only criteria to release the applicant on bail.

Learned advocate for the informant has placed reliance on *Shivani Tyagi Vs. State of U.P. and Ors.*, MANU/SC/0353/2024.

4. While granting bail to co-accused Deepak Khile in Criminal Application No. 375 of 2025, this Court has placed reliance on orders passed by the Apex Court in *Suresh Dattatraya Sonawane Vs. The State of Maharashtra and anr.*, in Criminal Appeal No. 2590 of 2023 and *Jagatpal Verma Vs. The State of Uttar Pradesh*, in Criminal Appeal No. 1725 of 2024. In paragraph 5 of the said order it is observed that, applicant

Deepak is behind the bars for 8 years and 7 months and while suspending sentence and granting bail to co-convict, it is observed that, appeal may not come up for hearing in the near future. It is a matter of record that out of 14 accused convicted in the present matter, 13 are so far released on bail. We are therefore of the view that on the ground of parity applicant is entitled for bail.

5. So far as reliance placed by learned advocate for informant on *Shivani Tyagi* (supra) is concerned in that decision it is observed that, under appeal against conviction involving serious offence like murder punishable under Section 302 Indian Penal Code the prayer for suspension of sentence and grant of bail should be considered with reference to the relevant factors mentioned thereunder, though not exhaustively. Factors like nature of the offence held to have committed, the manner of their commission, the gravity of the offence, and also the desirability of releasing the convict on bail are to be considered objectively and such consideration should reflect in the consequential order passed under Section 389, Code of Criminal Procedure. It is also observed that, mere factum of sufferance of incarceration for a particular period, in a case where life imprisonment is imposed, cannot be a reason for invocation of

power under Section 389 Code of Criminal Procedure without referring to the relevant factors.

6. There cannot be any dispute about aforesaid proposition, however, in the facts of the present case, since we are of the view that on the ground of parity applicant is entitled for bail, this decision is of no assistance to the informant.

7. In the result, application is allowed.

8. During pendency of the appeal, the substantive sentence of imprisonment imposed against Applicant- Sharad Govind Khile by learned Additional Sessions Judge, Dhule in Sessions Case No. 79 of 2016 vide judgment and order dated 08.11.2023, for the offences punishable under Sections 302, 324, 341, 143, 147 and 148 read with Section 149 of Indian Penal Code is suspended.

9. Applicant- Sharad Govind Khile is directed to be released on bail on executing Personal Bond in the sum of Rs. 15,000/- with one surety in the like amount.

(MANJUSHA DESHPANDE, J.)

(NITIN B. SURYAWANSHI, J.)