



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 845 OF 2025  
IN APEAL/151/2025

Ajay Alias Banti Sanjay Lone

....Applicant

VERSUS

The State Of Maharashtra

.....Respondent

.....  
Advocate for Applicant : Mr. Ghanekar Nilesh S.  
APP for Respondents: Mr. S.R. Wakale.

CORAM : SANDIPKUMAR C. MORE AND  
MEHROZ K. PATHAN, JJ.

DATE : 16<sup>th</sup> SEPTEMBER, 2025.

P.C. :-

1. Heard rival submissions.
2. The Applicant, who is accused No.1 in Sessions Case No. 15 of 2021 is seeking suspension of his substantive sentence and life imprisonment awarded by the learned Sessions Judge – 3, District Nanded in aforesaid case, during the pendency of this appeal, and his release on bail.
3. As per the prosecution story reflected from the evidence of PW-1 Dyshyant Jondhale, who is also the informant, is that, on 12.10.2020 at about 6.30 p.m. he received call from his brother Siddharth i.e. deceased in the present case, informing that the applicant and other accused Atish, were quarreling and bearing him near Raj Corner Auto Point. Accordingly, when he alongwith PW-2 Subham Jondhale went to the spot and saw that the appellant and other accused

Atish were beating his brother Siddharth. He, with the help of Shubham, separated his brother from them and they were returning with Siddharth. However, at that time, the other accused No.2 Ravi slapped Siddharth and when Siddharth turned around to see him, he provoked him. At that time, appellant Ajay took out knife and gave a blow of knife on the chest of Siddharth on left side. He also gave a second blow of knife on the neck of Siddharth, which he avoided, but, Siddharth received the blow on his chin. Siddharth fell down and he was taken to the hospital. However, he succumbed to the injuries and died at the Government Hospital, Vishnupuri.

4. Learned Advocate for the appellant/accused submitted that though there is evidence of 3 eye witnesses, but the same appears to be doubtful. Further, according to him, the offence was registered against the appellant under the influence of M.P. of the Hingoli constituency. Besides, he submitted that there was no prior dispute between the appellant and deceased. The incident had taken place at the spur of moment. Therefore, Exception IV to Section 300 of IPC is applicable to him. He further pointed out that appellant is not having any criminal antecedent to his credit and he has already undergone imprisonment for more than four years. He pointed out that though the incident is recorded in CCTV footage, but the prosecution avoided to bring that on record. As such, he submitted that incident might have taken place otherwise. He also pointed out that appellant had examined himself and came with a story that, in fact, the informant Dushaynt was carrying a knife and while assaulting him and other accused, Siddharth got stabbed accidentally.

5. On the contrary, learned APP strongly opposed the submissions made on behalf of the appellant. According to him, there is direct evidence against the appellant. Moreover recovery of weapon used

in the crime is also at the instance of the appellant only. He pointed out that the learned trial court has already disbelieved the defence of the witnesses being not trustworthy and reliable. Admittedly, there is evidence of three eye witnesses, namely, PW-1 Dushyant, PW-2 Shubham and PW-6 Viraj Baghate who appears to be an independent witness.

6. Though the learned advocate for appellant submitted that criminal act of the appellant can fall under Exception IV, and it may attract some lesser punishment, however, evidence of PW-1 indicates that though there was quarrel and incident of beating between appellant and accused, they had already separated Siddharth from appellant and other accused. As such, while returning, the present applicant inflicted fatal blows on the vital part of deceased Siddharth. Under such circumstances, there is no element of sudden provocation on the part of deceased. Moreover, recovery of knife is also at the instance of appellant only and evidence of the defence witnesses, prima facie, appears improbable. In view of the same, we are not inclined to suspend the sentence of imprisonment and release of the applicant on bail during the pendency of appeal.

7. In the result, criminal application stands rejected.

**[MEHROZ K. PATHAN]**  
**JUDGE**

**[SANDIPKUMAR C. MORE]**  
**JUDGE.**

grt/-