



IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO. 2229 OF 2025**

**IN CRIMINAL APPEAL NO.479 OF 2025**

Shivputra Sidramappa Dhule

Applicant

Versus

The State of Maharashtra

Respondent

...

Mr. Ram Shinde, Advocate for the applicant.

Mr. S.R. Wakale, A.P.P. for respondent – State.

Ms. Savita Mapari, Advocate assisting the A.P.P.

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

Reserved on : 22.09.2025

Pronounced on: 25.09.2025

**Order (Per Sandipkumar C. More, J.) :**

1. By filing this application, the applicant who is the sole accused in Sessions Case No.70 of 2019, is seeking suspension of his substantive sentence of imprisonment recorded by the learned Additional Sessions Judge, Udgir, District Latur (hereinafter referred to as, “learned trial Judge”) in the aforesaid sessions case under the judgment and order dated 02.04.2025. The applicant is sentenced to suffer imprisonment for life and to pay fine of Rs. 10,000/- alongwith default clause.

2. As per the prosecution story, in the intervening night of 04.06.2019 and 05.06.2019, the applicant committed murder of his father-in-law Ganpati Biradar by giving blow of pickaxe on the backside of his head.

3. Learned counsel for the applicant pointed out that there is no eye witness to the incident and that though the prosecution claimed that deceased was seen in the company of applicant lastly, but no such last seen theory is there on record. According to him, the informant i.e. wife of deceased, while lodging the F.I.R. had not taken any doubt on the present applicant, but in the said F.I.R. (Exh.18) she has expressed doubt on her brother-in-law Ram in respect of murder of her husband, since there was long standing dispute between them over the ancestral land. He pointed out that the prosecution came with concocted story of having illicit relation of the applicant with his sister-in-law Rundrani to whom he had disclosed on phone that he killed Ganpati. Learned counsel for the applicant further pointed out that the applicant was not in Malewadi and no blood stains were found on the pickaxe allegedly recovered at the instance of applicant. He submitted that such pickaxe is common implement, and therefore, it's recovery from the field itself is doubtful.

4. On the contrary, learned A.P.P. vehemently argued that recovery of murder weapon is at the instance of the applicant. Moreover, four witnesses including Rudrani and Renuka, who is the wife of applicant, have deposed about the guilt of applicant and specifically stated that on 04.06.2019 applicant was with the deceased throughout the day and in the night also he was seen in the farm house of deceased by brother-in-law of the informant Shakuntala. Further, he submitted that doctor has proved that death of Ganpati as homicidal, and therefore, the learned trial Court rightly convicted the applicant.

5. On the other hand, learned counsel Ms. Savita Mapari assisting the A.P.P. also adopted the aforesaid argument and pointed out that the applicant was seen in the farm house of deceased just before the incident.

6. Heard rival submissions. Also perused entire evidence on record alongwith the impugned judgment.

7. It is significant to note that while lodging report (Exh.18) dated 05.06.2019 the informant i.e. wife of deceased by name Shakuntala had not expressed any doubt on the applicant in respect of murder of her husband, but in fact

expressed suspicion over her brother-in-law Ram Gundappa Biradar, since there was dispute about taking water from the common well between them. The alleged involvement of the applicant appears to be disclosed only after 14 days when the informant Shakuntala in her supplementary statement disclosed that there was illicit relation between applicant and her daughter-in-law Rudrani and from her only she came to know that the applicant killed her husband, as he was reluctant to give the amount of Rs. 2,00,000/- to him for releasing him from the offence of theft.

8. Further, it appears that the learned trial Judge has convicted the present applicant on the grounds that Rudrani, Renuka, Shakuntala and Maruti had disclosed that the applicant was in company of deceased at the time of incident. However, if the report (Exh.18) is seen, then it is evident that nothing was stated by the informant Shakuntala that the applicant was also with the deceased on 04.06.2019 for the purpose of attending the court proceedings. Further, it appears that Shakuntala has improved her version by giving supplementary statement 14 days after the incident. Theory of illicit relations between Rudrani and applicant as stated by her and also by wife of applicant, has come on

record after 14 days only. Further, if the evidence of PW-7 Maruti who is also brother-in-law of the informant Shakuntala, is seen, then it is evident that he has deposed that he saw applicant on the roof of farm house of deceased on 04.06.2019 in the headlight of tractor. It is to be noted that between the field of Digambar admeasuring 4 Acres and the land of deceased there is 5 Acres land of this witness. Under such circumstances, noticing the applicant on the roof of the farm house of deceased from such a long distance and that too in the headlight of tractor, appears highly improbable. Moreover, this witness has further deposed that he then saw deceased coming to his house. It is extremely important to note that none of the prosecution witness had in fact seen the applicant and deceased together. Therefore, there cannot be any last seen theory in the instant case.

9. The case is based on circumstantial evidence only, and therefore, the prosecution has to establish a complete chain of incriminating circumstances against the applicant. It is to be noted that though the recovery of pickaxe which was allegedly used in commission of crime, was shown from the applicant, but it appears that it was from open field. Moreover, no blood stains were found on the said pickaxe and

there is no C.A. report also on record. Disclosure about the alleged involvement by the applicant has come after 14 days of the lodging of report (Exh.18). Moreover, it is also significant to note that at the time of trial this Court had in fact granted bail to the applicant and during entire trial he was on bail. Therefore, considering the evidence on record, it appears that two views are possible. Therefore, we deem it appropriate to release the applicant on bail during the pendency of this appeal by suspending his sentence of imprisonment. In view of the same, the application stands allowed. Substantive sentence of imprisonment imposed upon the applicant under judgment and order dated 02.04.2025 in Sessions Case No.70 of 2019, is hereby suspended during the pendency of this appeal and the applicant is released on execution of P.R. bond of Rs. 25,000/- with one surety in the like amount.

10. The appeal be removed from the category of “jail appeal”.

11. Application is disposed of accordingly.

**(MEHROZ K. PATHAN)**  
**JUDGE**

**(SANDIPKUMAR C. MORE)**  
**JUDGE**