



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CRIMINAL APPLICATION NO. 2326 OF 2025
IN APEAL/917/2024

1. Ramdas Sakharam Jarhad,
Age : 63 years, Occupation: Agriculture,
District : Jalna.
2. Dnyandev Sakharam Jarhad,
Age : 62 years, Occupation: Agriculture,
District : Jalna. ... Applicants

Versus

The State of Maharashtra ... Respondent

...
Mr. Sudarshan J. Salunke, Advocate for Applicants;
Ms. M. L. Sangit, APP for Respondent-State.
...

CORAM : NEERAJ P DHOTE, J.

DATE : 28th NOVEMBER, 2025

PC.:-

1. This is an application for suspension of sentence awarded by the learned Additional Sessions Judge, Ambad, District Jalna in Sessions Case No.41 of 2021 by judgment and order dated 19.09.2024, convicting the Applicants as follows:-

“a] Accused No.1 Ramdas Sakharam Jarhad, 2] Dnyandev Sakharam Jarhad, 4] Vinod Dnyandev Jarhad, 5] Kailas Ramdas Jarhad & 6] Rajendra Balasaheb Jarhad are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 307 r/w 149 of Indian Penal Code each of them is sentenced to undergo rigorous imprisonment for 10 years and pay fine of Rs.10,000/- each in default each to suffer rigorous imprisonment of one year.

- b] *Accused No.1 Ramdas Sakharam Jarhad, 2] Dnyandev Sakharam Jarhad, 4] Vinod Dnyandev Jarhad, 5] Kailas Ramdas Jarhad & 6] Rajendra Balasaheb Jarhad* are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 324 r/w 149 of Indian Penal Code and each of them is sentenced to undergo rigorous imprisonment for one year and pay fine of Rs.5,000/- **each** in default each to suffer rigorous imprisonment of three months.
- c] *Accused No.1 Ramdas Sakharam Jarhad, 2] Dnyandev Sakharam Jarhad, 4] Vinod Dnyandev Jarhad, 5] Kailas Ramdas Jarhad & 6] Rajendra Balasaheb Jarhad* are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 143 of Indian Penal Code and each of them is sentenced to undergo rigorous imprisonment for six months and pay fine of Rs.2000/- **each** in default each to suffer rigorous imprisonment of 15 days.
- d] *Accused No.1 Ramdas Sakharam Jarhad, 2] Dnyandev Sakharam Jarhad, 4] Vinod Dnyandev Jarhad, 5] Kailas Ramdas Jarhad & 6] Rajendra Balasaheb Jarhad* are hereby convicted U/sec 235 (2) of Cr.P.C. of the offence punishable under Section 148 of Indian Penal Code and each of them is sentenced to undergo rigorous imprisonment for one year and pay fine of Rs.2,000/- in default each to suffer simple imprisonment of 3 months.
- e] *Accused are entitled for set off as per section 428 of Cr.P.C.*
- f] *All the substantive sentences imposed upon the accused shall run concurrently.*
- g] *Accused Ramdas Sakharam Jarhad, Dnyandev Sakharam Jarhad, Vinod Dnyandev Jarhad, Kailas Ramdas Jarhad & Rajendra Balasaheb Jarhad* are hereby acquitted under Section 235(1) of Cr.P.C. of the offence punishable under Section 135 of the Bombay Police Act.
- h] *Accused to surrender to their bail bonds.*
- i] *On depositing of fine amount and after expiry of period of appeal the entire amount of fine be paid to injured Shivnath Narayan Patole as compensation as per section 357 of Cr.P.C.*
- j] *Case against accused No.3 Sopan Sakharam Jarhad has already abated as he died during pendency of this case.*
- k] *Muddemal property i.e. Four sticks being worthless, be destroyed after appeal period is over.*

- l] The copy of this judgment be given to accused persons free of costs.*
- m] The copy of this judgment be forwarded to District Legal Services Authority, Jalna for consideration of compensation to be paid to injured Shivnath as per section 357-A of Cr.PC.”*

2. The case of prosecution as can be seen from the relevant paragraphs from the impugned judgment which are reproduced below, is as follows:-

“2] The informant Bhanudas Patole was residing in village Parada along with his family. His elder brother Shivnath Patole was residing adjacent to his house. On 23-05-2014 at about 7 to 7.30 PM, he and his elder brother Shivnath were sitting in front of their house. At that time, Ramdas Jarhad, Sopan Jarhad, Dnyandeo Jarhad, Vinod Jarhad, Rajendra Jarhad and Kailas Jarhad (All Accused) came towards informant Bhanudas Patole and his brother Shivnath Patole having sticks in their hand. They asked Shivnath Patole as to why his son Somnath teased their daughter and started abusing Shivnath. All of them started beating Shivnath Patole by means of sticks.

3] Informant Bhanudas Patole went for saving his brother and at that time, Ramdas Jarhad, Sopan Jarhad, Dnyandeo Jarhad, Rajendra Jarhad (accused) inflicted the blows of sticks on the head of Shivnath, because of that Shivnath Patole fell on the ground and became unconscious. Appasaheb Patole, Madan Patole, Vitthal Patole, Madhukar Patole, Bramhanath Patole rescued the informant and his brother Shivnath Patole from the clutches of all accused. Nephew Navnath Patole and son of informant Bhanudas took informant and his elder brother Shivnath in the vehicle of Brahmanath to the Ambad Police Station. After taking letter from Ambad Police station, they took Bhanudas Patole and Shivnath Patole to Sub-District Hospital, Ambad where six stitches were put on the head of Bhanudas Patole. The Doctors from Sub-District Hospital, Ambad referred them to Government Hospital, Jalna for further treatment.

4] The condition of Shivnath Patole became critical and therefore, he was not taken to government Hospital, Aurangabad and was taken to Dhoot Hospital, Aurangabad. The treatment of Bhanudas Patole was going on in Government Hospital, Jalna, where police recorded his statement on 24-05-2014 after

obtaining the opinion from the Doctors and treated said statement as to FIR.”

2.1. After the investigation, the Applicants and co-convicts were charge-sheeted and after full-fledged trial, they came to be convicted as above.

3. It is submitted by learned Advocate for the Applicants that, though this Court by order dated 03.02.2025 in Criminal Application No.374 of 2025 in this Appeal has rejected the Application for suspension of sentence and Bail of the co-convicts, namely, Vinod and Kailash, the negative parity cannot be applied. For this, he cited the judgment of the Allahabad High Court in the case of ***Yunis & Anr. Vs. State of U.P.***, 1999 Cri. L.J. 4094, wherein it is observed that, the law of parity may be applied in granting bail to the co-accused, but cannot be invoked in rejecting the Bail Application of another co-accused. He further submits that, the Applicants were on bail during the trial and they are behind bars for a period of 18 months and since the Appeal is admitted and would not come up for hearing immediately and the Applicants being aged 63 and 62 years, respectively, their sentence be suspended and they be granted bail. He cited the decision of Hon'ble Apex Court in the case of ***Bhagwan Rama Shinde Gosai & Ors. Vs. State of Gujarat***, AIR 1999 SC 1859, in support of his submission that, the sentence is to be suspended, if the sentence is for fixed period,

unless there are exceptional circumstances. He submits that, Applicant No.1-Ramdas was out of the jail on parole for medical treatment and he has surrendered to the concerned jail. He submits that considering all these aspects, the Application be allowed.

4. The Application is opposed by the learned APP. She submits that, the conviction recorded by the learned Trial Court is based on the testimony of the injured witnesses and corroborated by the medical evidence. She further submits that, the maximum sentence of conviction awarded by the learned Trial Court is of 10 years and they are behind bars for a period of 18 months. She submits that the Application be rejected.

5. The above referred legal principles as enumerated in the above referred judgments are well settled. With the assistance of both the sides, gone through the paper-book. The prosecution's case is primarily based on the testimony of the injured witnesses. PW1-Bhanudas is the injured witness. In his evidence, he deposed of the incident on 23.05.2014. His evidences show that, another injured-Shivnath was assaulted in the head by the Applicants with the stick. When he intervened, he was also assaulted by the co-convicts. He deposed that, the injured-Shivnath become lame. The prosecution examined another injured witness-Shivnath as PW4. In his evidence,

he deposed of the incident of assault on him by the Applicants on 23.05.2014 by the sticks on his head. The prosecution was brought on record the medical evidence by examining the PW6-Doctor who examined the injured PW4-Shivnath on 23.05.2014. The relevant part from the evidence of PW6-Doctor is reproduced below:-

“2) The patient Shivnath was neurologically serious with glasgow Coma-scale was around 5/15. It comes under very serious coma. We did the CT Scan of patient. We saw, serious injury on the brain. So, I operated him in the morning about 03.00 a.m. I found extradural haematoma bilaterally with sub-arachnoid arachnoid hemorrhage and diffuse axonal injury. His brain was damaged.

3) The age of injury was fresh. It was caused by hard and blunt object. The nature of injury was grievous. The brain damaged to the patient cannot be recovered fully. The said injury causes permanent disabilities for some organs. Muddemal wooden sticks now shown to me. The injuries sustained by the patient can be possible by such wooden sticks. Now, MLC sheet and MLC information paper now shown to me are one and same. It bears my signature, it is marked at Exh. 84 and Exh. 85. Accordingly, I issued certificate. Certificate now shown to me. It's contents are correct. It bears my signature and office seal. It is marked at Exh. 86. I have also taken the thumb impression of patient as a identity on MLC Sheet.

Examination-in-chief is over.”

6. The testimony of medical officer is supported with the medical papers.

7. It is needless to state that, the testimony of injured witness stands on the higher pedestal. The medical evidence show the seriousness of the injury caused in the assault by the Applicants to the injured-Shivnath. On the basis of the evidence available on record,

learned Trial Court has convicted and sentenced the Applicants. Considering these aspects of the matter, in my view, this is not a fit case for suspension of sentence and grant of Bail of the Applicants. Hence, the Application is rejected.

(NEERAJ P. DHOTE, J.)

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