



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

**CRIMINAL APPLICATION NO. 843 OF 2025
IN APEAL/1029/2023**

MORARJI BHAURAO GHATOL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. R. S. Deshmukh, Sr. Advocate a/w Mr. Vishal Chavan, Advocate
i/b Mr. Devang R. Deshmukh, Advocate for Applicants
Ms. S. N. Deshmukh, APP for Respondent/State
Mr. Amita D. Chate, Advocate for Respondent No.2

...

**CORAM : NITIN B. SURYAWANSHI &
SANDIPKUMAR C. MORE, J.J.**

DATE : 30th JUNE, 2025

PER COURT :

1. Applicants are convicted by the Sessions Court for offences punishable under Section 302 read with Section 149 of the Indian Penal Code, along with four accused persons. By this application, applicants / original accused Nos. 1 and 5 seek bail during the pendency of appeal.

2. Heard learned Senior Advocate for applicants, learned APP for respondent / State and learned Advocate representing respondent No.2. We have perused the depositions of eye-witnesses, medical evidence and the impugned judgment and order of conviction.

3. After arguing at length on merits, when this Court was

not inclined to grant bail to applicant No.1, learned Senior Advocate for applicants, on instructions, seeks permission to withdraw his application. Permission granted. Application of applicant No.1 - Morarji Bhaurao Ghatol is disposed of as withdrawn.

4. So far as application of applicant No.2 / original accused No.5 is concerned, allegation against him as have appeared in the evidence of two eye-witnesses is that while applicant No.1 assaulted the deceased with *Katti* on head, co-accused persons i.e. accused Nos.2 to 5 assaulted with sticks.

5. It is necessary to mention here that co-accused persons were granted bail during the trial and they are, therefore, released on bail by this Court. Since applicant No.2 was not on bail, his bail application was permitted to be withdrawn at earlier point of time, however, it is made clear by this Court that the matter was not heard on merits.

6. Perusal of evidence on record reveals that allegation against applicant No.2 is that he assaulted deceased with stick. The same role is attributed to other co-accused i.e. original accused Nos.2 to 4. However, they are released on bail.

7. Applicant No.2 is in jail since 2018 and the present appeal is not likely to be heard in near future. Applicant No.2 appears to have good chances of succeeding in the appeal. Even if

for the sake of argument it is accepted that applicant No.2 is liable to be convicted, we are of *prima facie* opinion that he would be convicted for lesser offences.

8. Taking into consideration the above circumstances, we deem it appropriate to release applicant No.2 on bail during the pendency of present appeal. In the result, following order:-

ORDER

- (I) Application of applicant No.2 is allowed.
- (II) The substantive sentence imposed by learned Additional Sessions Judge, Kandhar, in Sessions Case No.05/2019, vide judgment and order dated 30/08/2023, on Applicant No.2 - Ganesh Bhaurao Ghatol is suspended during the pendency of appeal.
- (III) Applicant No.2 - Ganesh Bhaurao Ghatol be released on bail on furnishing personal bond of Rs.25,000/-, with one surety in the like amount. He shall not pressurize the prosecution witnesses.

9. Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)