

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.94 OF 2025
IN
CRIMINAL APPEAL NO.83 OF 2025**

1. Digambar Gundu Sawant
2. Gundu Digambar Sawant
Vs.
State of Maharashtra & Anr.

...Applicants
...Respondents

Mr. Abhijeet Rane, for the Applicants.
Ms. Sharmila S. Kaushik, APP for the Respondent No.1-State.
Mr. Saket S. Tare i/by Adv. Yashodhan Gavankar, for the Respondent No.2.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.**

DATED : 14th JULY, 2025

P.C. :-

- 1) This is an Application for bail and suspension of sentence during pendency and final disposal of Criminal Appeal No.83 of 2025 filed by the Applicants.
- 2) The Applicant No.1 was the original Accused No.1 and the Applicant No.2 was the original Accused No.2 in Sessions Case No.17 of 2019 before the learned Sessions Judge, Sindhudurg, Oros. The learned Judge *vide* the Judgment and Order dated 26th December, 2019 convicted both of them for commission of offence punishable under Sections 302 and

504 read with Section 34 of the I.P.C. The major sentence imposed on them was life imprisonment besides imposition of fine.

3) The Applicant No.1 was around 70 years of age in the year 2019 when the charge was framed. The Applicant No.2 is his son. He was 30 years of age when the charge was framed. The Applicant No.1 thus today is around 75 years of age.

4) The prosecution case is that, on 11th November, 2018 at about 05:30 p.m., both the accused confronted the deceased Vilas Sawant when he was filling water from a well. The Applicant No.1 held his hands and the Applicant No.2 gave blows with heavy wooden stick on the head of Vilas Sawant. He succumbed to his injuries. The F.I.R. was lodged. The investigation commenced. The Applicants were arrested on 12th November, 2018 and since then, they are in custody.

5) Learned Counsel for the Applicants submitted that, there are two eye witnesses examined by the prosecution. Both of them contradict each other as far as their presence at the spot is concerned. The son of the deceased had not named the Applicants when the history was given to the Medical Officer. The Medical Officer has admitted that the injuries on the head was not possible by the wooden stick produced by the prosecution in this case, through recovery from the accused. Therefore, there is a serious doubt about the prosecution case and both the Applicants deserve to be released on bail.

6) Learned Counsel for the Respondent No.2 who is the widow of the deceased submitted that, if the Applicants are released on bail, there would be danger to the safety of the victim's family and particularly to the victim's widow i.e., the Respondent No.2.

7) Learned APP submitted that repeated blows were given on the head of the deceased. Therefore, the intention of both the accused was clear that they wanted to commit murder of the deceased.

8) We have considered these submissions and we have perused the evidence of the eye witnesses and the medical evidence.

9) PW-4 Purvesh was the son of the deceased. He has described the incident that on 11th November, 2018 at about 05:20 p.m., his father Vilas Sawant had gone to fetch water from a public well. While he was climbing up the well after filling the water, the Applicant No.1 caught his hands from behind and the Applicant No.2 abused him. There was a reference to the land dispute. The Applicant No.2 then assaulted his father with a wooden stick. When PW-4 went near his father, the Applicant No.2 stopped beating. The Applicant No.1 pushed PW-4. The Applicant No.2 rushed towards PW-4. Therefore, PW-4 ran away raising shouts. The others including PW-5 came at the spot. By that time, his father had already become unconscious.

10) PW-5 Ravina was related to PW-4. She has also described the incident in the same manner as is described by PW-4.

11) The medical evidence in the form of PW-8 Dr. Chetan Karekar shows that there were two serious blows on the head of the size 8 cm x 4 cm and 8 cm x 6 cm causing depressed comminuted fracture of the skull. There were other marks of assault on the knee joint and other parts.

12) Thus, it can be seen that the deceased was assaulted and was given multiple blows on the head and other parts. We are not impressed by the submission of learned Counsel for the Applicants that PW-4 could not have witnessed the incident or that, PW-5 had come at the spot subsequently. We hardly see any contradiction between them. PW-4 was more concerned in saving his father but he was threatened by the Applicants. Therefore, he had tried to run away raising shouts by which time the other people came there to help the deceased. At that time, PW-5 was also one of them. She has also described the incident consistently. At this stage, there is nothing to show that both the Applicants had not played their part as described by PW-4. However, Applicant No.1 is around 75 years of age. He is not attributed the main role of assault on the head of the deceased. Therefore, we are inclined to grant him bail but we are not inclined to grant bail to the Applicant No.2. Hence, the following Order :-

:: ORDER ::

- (a) The Application on behalf of the Applicant No.2 – Gundu Digambar Sawant, is rejected.

(b) During the pendency and final disposal of Criminal Appeal No.83 of 2025, the Applicant No.1 – Digambar Gundu Sawant is directed to be released on bail on his executing PR. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

13) The Interim Application is disposed of.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)