

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1123 OF 2025
WITH
CRIMINAL APPEAL NO.298 OF 2025

Nanaso @ Sagar Manik Chougule ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Aabad Ponda Sr. Advocate a/w Mr. Sumit Krishna Kumar Tiwari, for the Applicant.

Ms. Kranti T. Hivrale, APP for the Respondent-State.

CORAM : SUMAN SHYAM &
SHYAM C. CHANDAK, JJ.

DATED : 22nd JULY, 2025.

P.C. :-

1) This is an Application for bail pending Appeal preferred by the Applicant who was the Original Accused No.3 in Sessions Case No.44 of 2018 before the Additional Sessions Judge, Sangli. There were in all seven Accused. The learned Judge *vide* his Judgment and Order dated 7th January, 2025 acquitted the Original Accused No.7-Sunil Kolekar but convicted the other Accused persons including the present Applicant, for commission of offences punishable under Sections 302 read with Section 149 and under Sections 143, 147 and 148 of the I.P.C. The major sentence imposed on them was imprisonment for life besides the imposition of fine.

2) Heard Mr. Ponda, learned Senior Counsel for the Applicant and Ms. Hivrale, learned APP for the Respondent-State.

3) The incident occurred in the night intervening 1st December, 2017 and 2nd December, 2017. As per the prosecution story, during an entertainment programme arranged in the village, the Applicant's group had behaved in an unruly manner and they had disturbed the programme. One Ashok Bhosale and his brother Prakash Bhosale took an exception to such behaviour and they complained to the village panchas. The Applicant's group got annoyed. In the night, all the Accused came on two wheelers carrying weapons like gupti and sticks. Prakash and Ashok were assaulted. Ashok was assaulted on his thigh and buttocks with sharp weapon, cutting his femoral vein causing his death. On these allegations, the F.I.R. was lodged by Ashok's father. Investigation was carried out and the Applicant was arrested on 4th December, 2017. During trial the prosecution relied mainly on the evidence of the eye witnesses i.e. PW1- Tanaji Bhosale, who was the father of the deceased, PW3-Prakash Bhosale, who was the brother of the deceased and who was also injured in the incident. The third eye witness was PW4-Dnyaneshwar Bhosale, who was one of the panchas in the village. Their evidence narrating the incident, was consistent.

4) Mr. Ponda, the learned Senior Counsel for the Applicant submitted that, the prosecution has not come forward with the true story

behind the incident. The incident had occurred in a very different manner. There were seven motorcycles which were damaged. That was the beginning of the incident. The members of the party of the deceased were the aggressors, who suppressed the true story from the police and the trial Court. He submitted that, as alleged, the Applicant was armed with a “*kukri*”, which he wielded and threatened the witnesses from rescuing the deceased. But, there was no allegation that the Applicant used that weapon and caused some injury to the deceased. This fact is confirmed by the postmortem report, he submitted. However, the CA noticed blood on the said weapon, which is not correct. He submitted that Original Accused No.6 had role of inflicting stick blows to the deceased, who had been granted bail by this Court. Compared to that, the role attributed to the Applicant is of lesser degree. Lastly, Mr. Ponda submitted that, while granting bail to said Accused No.6, this Court observed that, there was no common object to commit murder of the deceased-Ashok. He submitted that, the Applicant was on bail during trial. There are no allegations of misusing that liberty.

5) Learned APP, on the other hand, submitted that, the evidence of PW Nos.1, 3 and 4 was consistent that the Applicant and his co-accused assaulted the deceased and caused his death. All the Accused had come prepared with the weapons. She submitted that, the deceased was done to death with sharp weapons. Therefore, the common object of the Accused to commit the murder was evident, which ultimately led to their conviction.

6) We have considered these submissions. PW1-Tanaji Bhosale is the father of the deceased. According to him, the Applicant's group created disturbance during the entertainment programme. Therefore, his both sons i.e. Ashok and Prakash complained to a panch committee and requested to prevail upon the Applicant's group to behave properly. However, after the said programme was over, all the Accused came to that spot including acquitted Accused No.7. He has further deposed that, the Accused Sandip and Vishal were carrying gupti, Applicant-Sagar was having *kukri*, the others were having sticks. Specific role of assault with gupti is attributed to Sandip and Vishal. There is a general statement that the other Accused assaulted Ashok with sticks on his shoulder, back and other parts. His other son Prakash (PW3) was assaulted on his eye and back by the Accused-Kolekar. The Accused then fled, leaving their two wheelers at that same spot. Ashok was taken to the dispensary but he was declared dead.

7) PW3-Prakash Bhosale has deposed in the same manner. The deposition of PW4-Dnyaneshwar Bhosale is on the same line. P.W.4 has specifically deposed that, Prakash and Ashok had complained him about the Applicant's group. There is no discrepancy in the evidence of PW Nos.1, 3 and 4.

8) The postmortem notes show that the deceased had suffered three incised wounds. Out of that, the two wounds were on the right thigh and one wound was on the right gluteal region. The cause of death was

mentioned as hemorrhagic shock due to multiple injuries. Medical certificate of the Prakash shows that, he had suffered three contusions, one abrasion and one incised wound near his eye, which were described as simple injuries. In this background, it is clear that the complaint was made by both Ashok and Prakash to the panch committee. Therefore, while granting bail to said Accused No.6, this Court observed that, “... *if there was a common object arising out of that grudge, then Prakash and Ashok both were the targets. However, it can be seen from the evidence that Prakash had suffered only simple injuries, whereas three incised wounds were caused to Ashok on the thigh and the surrounding region. It was not on the abdomen or thorax. Therefore, at this stage, we find substance in the submissions of the learned senior counsel that, the common object was not to commit murder of the deceased but to cause assault, which could have resulted in causing hurt or even grievous hurt but not the injury resulting in death.*” The Applicant is attributed the role of wielding the *kukri*. But, P.W.3, in cross, paragraph 23, admitted that, “It did not happen that somebody was assaulted with a *kukri*.” There were contusions on the shoulder and the stick was not used to assault the deceased on any vital part. Mr. Ponda fairly submitted that as per the CA, there was blood on the clothes of the Applicant and his co-accused, which the Applicant allegedly discovered. However, he submitted that said fact was not relied upon by the trial Court. Moreover, it is debatable, because the Applicant did not use the *kukri*. Therefore, for consideration of

bail, at this stage, the submissions of the learned senior counsel for the Applicant can be accepted. The Applicant was on bail during trial. There are no allegations of misuse of that liberty. Therefore, we are inclined to allow this Application.

9) It is made clear that these observations are made only for the purpose of deciding this Bail Application. All these aspects will have to be considered finally, at the stage of hearing. At this stage, the Applicant has made out a case for grant of bail pending the Appeal. Hence, the following order :-

::ORDER ::

- (i) During pendency and final disposal of Criminal Appeal No.298 of 2025, the Applicant/Original Accused No.3 in Sessions Case No.44 of 2018 is directed to be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount.
- (ii) The Application is disposed of.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)