

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

Interim Application No.1307 of 2025

In

Criminal Appeal No.312 of 2025

Pandurang Balku Yamgar

Age: 77 yrs, Occ: Agri

R/o Mhasurne, Taluka Khatav

District -Satara

(At present in Satara Jilha Karagruh) ... Applicant/Org accd

Versus

The State of Maharashtra

(Notice to be served upon APP,

High court, Appellate Side, Mumbai) ... Respondent.

Mr Viresh V Purwant a/w Mr Suraj Gadkari for the applicant.

Dr Ashwini Takalkar, APP for respondent/State.

HC Sandeep Zagade, Vaduj Police Station, Satara.

Coram: R.N. Laddha, J.

Date: 7 April 2025.

P.C.:

Heard Mr Viresh Purwant, learned Counsel appearing on behalf of the applicant, and Dr Ashwini Takalkar, learned Additional Public Prosecutor representing the respondent/State.

2. The applicant faced trial in Sessions Case No.39 of 2014

before the Additional Sessions Judge at Vaduj, Satara, for the offences punishable under Sections 302 and 307 of the Indian Penal Code ('IPC'). By the judgment and order dated 28 February 2025, the applicant was convicted under Section 304 Part I of IPC and sentenced to suffer rigorous imprisonment for ten years and a fine of Rs.5,000/-, with default stipulations. Aggrieved, the applicant preferred an appeal before this Court and, by the present application, seeks suspension of the sentence and his release on bail.

3. Learned Counsel appearing on behalf of the applicant, highlighting the alleged deficiencies in the prosecution case, argues that the testimonies of the prosecution witnesses lack credibility and do not inspire confidence. He contends that the prosecution examined no independent witnesses. The victim discharged himself from the hospital against medical advice and took treatment in three different hospitals. The alleged incident occurred on 8 May 2014, and the victim died after about 15 days on 22 May 2014. The medical evidence does not support the ocular evidence. Further, learned Counsel submits that the alleged weapon was not recovered at the applicant's instance. Since the applicant was on bail throughout the trial, he should receive the same treatment during the pendency of the appeal. The applicant is willing to adhere to any conditions set by this

Court and is willing to fully cooperate with the revision proceedings if released on bail.

4. Learned Additional Public Prosecutor representing the respondent/ State, opposing the applicant's request, refers to the seriousness of the charge under which the applicant has been convicted and submits that the evidence on record strongly supports the prosecution's case and does not warrant the applicant's release on bail.

5. It is a well-settled position in law that the appellate Court can leniently consider a convict's request for suspension of the sentence in cases where the term of the sentence is fixed except in exceptional circumstances or where restrictions under any statute apply. If the sentence imposed cannot be suspended, the appellate Court must endeavour to adjudicate the appeal on merits, especially in cases where there is a plea for expeditious resolution. Failing to do so could jeopardise the applicant's statutory rights due to the passage of time. In situations where the appellate Court recognises that practical circumstances may hinder the prompt resolution of the appeal, it becomes essential for the Court to exercise heightened diligence in deliberating on sentence suspension. This ensures that the appeal process remains viable, meaningful, and effective. Additionally, when

granting bail, the appellate Court has the discretion to impose certain conditions. A profitable reference in this regard can be made to the decision in *Bhagwan Rama Shinde Gosai v. State of Gujarat*¹.

6. Upon perusal of the records, it appears that the applicant is directed to undergo a maximum imprisonment of ten years. The alleged incident occurred in 2014, and the applicant is a senior citizen, aged about 77 years. The alleged weapon was not recovered at the instance of the applicant. The medical evidence appears to diverge from the central allegations made. The applicant was on bail throughout the trial and there is no complaint of misusing the bail. While this Court acknowledges the arguments put forth by the learned APP regarding the gravity of the offence and the post-conviction stage of the proceedings, it is essential to consider that the present appeal has been filed in 2025 and is unlikely to be heard in the near future due to the pendency of older appeals. Furthermore, the applicant was on bail during the trial, and nothing on record suggests that exceptional circumstances exist to justify the refusal of the relief prayed for. Given the above, the applicant is entitled to the benefit of suspension of sentence and bail pending the final disposal of the appeal. Hence, the following

¹ (1999) 4 SCC 421.

order:

ORDER

(i) The sentence imposed upon the applicant vide the judgment and order dated 28 February 2025 passed by the Additional Sessions Judge at Vaduj, Satara, in Sessions Case No.39 of 2014, stands suspended during the pendency of the appeal.

(ii) The applicant shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

7. The interim application stands disposed of accordingly.

[R.N. Laddha, J.]