

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

**INTERIM APPLICATION NO. 1479 OF 2025
IN
CRIMINAL APPEAL NO. 402 OF 2025**

Aagatrao Laxman Kale

..Applicant

Versus

The State of Maharashtra

..Respondent

Ms. Shivani Kondekar for Applicant.

Ms. Priyanka S. Rane, APP for State/Respondent.

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

DATE : 1 JULY 2025

PC :

1. This is an application for bail pending Appeal. The Applicant was the original Accused No.4 in Sessions Case No.63 of 2021, before the Additional Sessions Judge, Barshi. The learned Judge, vide his Judgment and order dated 05.03.2025, convicted the present Applicant along with the original Accused No.1 Kirtimala Kale and the Accused No.6 Akash Bhalekar for commission of the offences punishable under sections 302, 201 and 120B of the I.P.C. The major sentence imposed on them was

the life imprisonment, besides imposition of fine.

2. Heard Ms. Shivani Kondekar, learned counsel for the Applicant and Ms. Priyanka Rane, learned APP for the State.

3. The prosecution case is about the murder of one Laxmibai. The F.I.R. is lodged by Laxmibai's sister Tai Kale. According to the prosecution case, Laxmibai's daughter Komal was married to Somnath Kale who had died in an accident. The present applicant is the father of Somnath. Komal was residing with the applicant and his family. She was not allowed to meet Laxmibai or anybody else from her parents' family. The family of the accused was suspecting that Laxmibai had used some black magic resulting in death of Somnath and that she had also practiced black magic. They were under the impression that Laxmibai was in the process of getting Komal married the second time. Therefore, all the accused committed murder of Laxmibai by assaulting her with sickle etc.

4. Learned counsel for the applicant submitted that the prosecution has examined 14 witnesses. Out of which, only PW-3

Komal and PW-7 Prashant Jadhav a pancha are relevant, but both of them do not prove the prosecution case against the present applicant.

5. Learned APP submitted that the evidence of PW-3 Komal and PW-7 Prashant is incriminating.

6. We have considered these submissions. PW-3 Komal has stated that on the day of incident, the date she did not mention, at about 5:00p.m. Kirti took key from her of their out house. The accused Samadhan also went there. He was having a *koyta*. At about 8:00p.m. Kirti, Priti, Samadhan, Roky and the present applicant returned to their house. There were blood stains on the clothes of Kirti, Priti, Samadhan and Roky. All of them took bath and they burned their blood stained clothes. At that time, Kirti told Komal that they had killed Komal's mother Laxmibai. Next day the police came to their house. At that time, Priti and Kirti confessed to the crime and showed the dead body thrown in the well. Then she narrated about the previous incident of rape against the applicant and others. However, those allegations are not connected to the present case. Thus, Komal is the main witness against the

applicant, however, her conduct is more peculiar. Even after coming to know about the murder of her mother, she had not taken any steps, she had not raised any shouts, she had not sought any help. This is the only main evidence against the applicant. She is not the witness to the assault.

7. As far as, PW-7 is concerned, he was a pancha in whose presence, at the instance of accused No.1, murder weapon kept in a shirt was recovered. According to the prosecution case, that shirt was of the applicant. However, this recovery cannot be connected to the present applicant as it was at the instance of the Accused No.1.

8. Thus, we find that the evidence against the present applicant is quite weak. The Applicant is a 70 year old man. He was on bail during trial. There are no allegations of misuse of that liberty. Therefore, we are inclined to allow this application.

9. Hence, the following order:

ORDER

- i) During pendency and final disposal of Criminal Appeal No.402 of 2025, the Applicant is directed

to be released on bail on his furnishing P. R. bond in the sum of Rs.25000/- with one or two sureties in the like amount.

ii) The Application is disposed of.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)