

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

**INTERIM APPLICATION NO.1833 OF 2025
IN
CRIMINAL APPEAL (ST) NO.10138 OF 2025**

Firoz Alikhan Irani
versus
The State of Maharashtra

.... Applicant
.... Respondent

.....

- Mr. Harshad V. Nimbalkar, Senior Advocate i/b. Mr. Satyam Nimbalkar a/w Mr. Abhishek Arote, Advocate for Applicant.
- Mr. V. B. Konde-Deshmukh, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.
DATE : 17th JUNE, 2025**

P.C. :

1. This is an application for the Applicant's release on bail during pendency of his Criminal Appeal (ST) No.10138 of 2025.

The Appeal is admitted by a separate order today.

2. The Applicant was the original accused No.1 in Sessions Case No.17/2018 before the learned Additional Sessions Judge, Sangli. The learned Judge vide the Judgment and order dated 24/04/2025, convicted the Applicant and his son Irfan, who was the original accused No.5 for the commission

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of offence punishable u/s 302 r/w 34 of the Indian Penal Code. Both of them were sentenced to imprisonment for life and to pay a fine of Rs.5,000/- each and in default of payment of fine to suffer rigorous imprisonment for two months. There were three other accused i.e. the wife and two daughters of the Applicant who had faced the trial, as accused Nos.2, 3 and 4. But they were acquitted from all the charges.

3. Heard Mr. Harshad V. Nimbalkar, learned Senior Counsel for the Applicant and Mr. V. B. Konde-Deshmukh, learned APP for the State.

4. The prosecution case pertains to the incident dated 20/10/2017. There was a dispute between the Applicant's family and his sister's family. The deceased in this case is his nephew Sarfaraj. The FIR was lodged by Sarfaraj's brother Mohammad Yusuf Irani. On the date of the incident, there was some disturbance between the deceased on one hand and the Applicant and his son on the other at the time of the funeral of one of the persons from their community. In the night, the

incident took place in the lane in front of the Applicant's house. According to the prosecution case, all the accused had caught hold of the deceased Sarfaraj and the accused No.5 had inflicted a blow of knife on the deceased causing his death.

5. Learned Senior Counsel for the Applicant invited our attention to the evidence of the two eyewitnesses i.e. PW.9 and PW.10. He submitted that there are important contradictions between the versions given by both these eyewitnesses. There are certain omissions from their evidence vis-a-vis their police statements which go to the root of the matter. There is no specific role attributed to the Applicant causing assault on the deceased. That role is specifically attributed to the other Appellant i.e. accused No.5. The Applicant was on bail during trial. There are no allegations that he had misused that liberty. On the other hand, there were many cases pending against the deceased Sarfaraj.

6. Learned APP on the other hand relied on the evidence of these two eyewitnesses and submitted that the Applicant's

presence at the spot is established and the role of holding the deceased is also attributed to him.

7. We have considered these submissions. It is necessary to refer to the evidence of the two eyewitnesses. The first one is P.W.9 Mohammad Yusuf Irani, who was the brother of the deceased. He has deposed that on 20/10/2017, in the afternoon, there was some altercation between Sarfaraj on one hand and both the accused including the present Applicant on the other. Significantly this particular aspect was not mentioned by him in his statement recorded u/s 164 of Cr.P.C. He could not tell at what time that incident had taken place. He further deposed that after he came back home, Sarfaraj told him that the Applicant had called him to his house and therefore he went there. This particular statement is also not mentioned by P.W.9 in his statement recorded u/s 164 of Cr.P.C. While describing genesis of the incident, there are omissions from his earlier statement. The main incident is described further. According to him accused Nos.1 and 4 had caught Sarfaraj. Accused Nos.2 and 3 caught Sarfaraj's hair and thereafter accused No.5 gave a blow with knife on his back. Significantly, accused Nos.2, 3 and

4 are acquitted. Therefore, to that extent his version is disbelieved. The role attributed to the Applicant is vague.

8. This particular evidence will have to be tested against the evidence given by P.W.10 Nikhil Lokhande. He has deposed about the quarrel between the accused No.5 and Sarfaraj that had taken place in the afternoon. In the evening he saw that Sarfaraj was running away from his house towards the house of the accused No.5. According to this witness, even P.W.9 was following him. When he went there, he saw that two-three women had caught Sarfaraj and the accused No.5 inflicted a blow with knife on his stomach. As far as the Applicant is concerned, according to this witness, the Applicant was present there. But beyond that, no specific role is attributed to him. He did not even depose that the Applicant had caught the deceased.

9. The post-mortem notes show that the deceased had suffered one stab wound on the back, which had penetrated upto the pericardium.

10. Thus, it can be seen that the main role is attributed to the accused No.5. There is an important contradiction in the evidence of PW.9 and PW.10 regarding the Applicant's role. There are certain omissions as mentioned earlier, which go to the root of the matter. The Applicant was on bail during trial. There are no allegations that he had misused that liberty. Considering all these aspects, the Applicant can be granted bail during pendency of his Appeal.

11. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal (ST) No.10138 of 2025, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with one or two sureties in the like amount.
- (ii) Interim Application stands disposed of accordingly.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)