

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

**INTERIM APPLICATION NO. 3275 OF 2022
IN
CRIMINAL APPEAL NO. 929 OF 2022**

Ravindra Gorakhnath NikamApplicant
Versus
The State of MaharashtraRespondent

Mr. Satyavrat Joshi a/w Samay Pawar - Advocate for the
Applicant
Smt. Mankuwar M. Deshmukh - APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 13th JANUARY 2025

P.C. :

1. The Applicant was the original accused in Sessions Case No. 176 of 2014 before the Additional Sessions Judge, Satara. The learned Judge vide the judgment and order dated 25.08.2022 convicted the Applicant for commission of offence punishable under Section 302 of the Indian Penal Code and sentenced him to suffer imprisonment for life and to pay fine of

Rs. 10,000/- and in default of payment of fine to suffer rigorous imprisonment for six months. There were other accused nos. 2 to 7 who were tried alongwith the Applicant. All of them were acquitted from those charges.

2. The prosecution case pertains to the incident dated 05.09.2014, when allegedly the Applicant assaulted one Rushikesh with a sword in his stomach causing his death.

3. Learned counsel for the Applicant submitted that the incident occurred in front of the Applicant's house. The Complainants' side were the aggressors. They had come prepared to commit the murder and mount assault on the Applicant and his family members which is evident from the injury suffered by his parents and cousin. He submitted that the cross case lodged at the instance of the Applicant's group has resulted in acquittal. The injuries suffered by the Applicant's side is considered by the learned Judge, and they are reflected in the judgment. Those injuries are quite serious and are on vital parts. Therefore, it reasonably gives rise to the apprehension that grievous hurt

would have been caused to the Applicant's side. He, therefore, submitted that the Applicant got the right of private defence in protecting his parents. He submitted that the evidence of the eye-witnesses show that incident occurred in front of house of the Applicant and the complainant's group was actually searching for him for committing assault on him.

4. Learned Counsel also fairly submitted that, at present, apart from this case, the Applicant is in custody in respect of another case under M.C.O.C. Act as well as Sections 392 and 394 of the Indian Penal Code. In that case, he was acquitted from the charges of the MCOC, but he was convicted under Sections 392 and 394 of the Indian Penal Code. He submitted that he was acquitted from one more case under Section 354 of the Indian Penal Code.

5. Learned APP opposed these submissions. She invited our attention to the injuries suffered by the deceased and submitted that it could not be a lesser offence but the offence of murder.

6. We have considered these submissions. We have perused the evidence of PW No. 4-Jitendra Nikam and PW No. 7-Mayur Dange. Both of them have stated that, about 7 to 8 days prior to the present incident, one Aaba Nikam from the Complainant's side was beaten. He had lodged a report with the Police Station. On 05.09.2014 in the evening, PW No. 4- Jitendra Nikam and Rushikesh went to the agricultural land to search for the present Applicant. They wanted to question him for beating Aaba and to hold a meeting. However, they could not find the Applicant. Then they went to the Applicant's house to meet him. It is their case that, the Applicant came from the opposite direction. He was carrying a sword, and he gave blow with sword on the abdomen of Rushikesh. The co-accused-Sohil gave a knife blow on the abdomen of Rushikesh and one Sachin inflicted blow of iron rod on Rushikesh's head. The Applicant's parents and cousin assaulted these two witnesses. Thus, it is quite clear that the Complainant's side that is PW Nos. 4, 7 and Rushikesh had gone to the house of the Applicant. This shows that they could be the aggressors. The impugned judgment in paragraph No. 100

mentions that the Applicant's mother had suffered superficial CLW over scalp. His father had suffered 10 C.M. X 12 C.M. CLW over dorsum of hand extending to wrist from 2nd web space. His index finger extension was absent and there was rupture of tendon. The Applicant's cousin had CLWs on the head and right palm. All these injuries show that the Applicant's side was assaulted on vital parts. These injuries are not explained by the prosecution witnesses. Therefore, there is substance in the submissions of the learned counsel for the Applicant that the Complainant's group was the aggressor.

7. Apart from that, the other co-accused including Sohil Nikam who had allegedly given a knife blow, is acquitted. Therefore, considering all these aspects, the Applicant has made out the case for his release on bail during pendency of this appeal. Though it is pointed out that he is already in custody in respect of another offence; as far as the present appeal is concerned as discussed earlier, he has made out a case for grant of bail pending appeal.

8. Considering his antecedents some conditions will have to be imposed on him. Hence following order :-

ORDER

(i) During pendency and final disposal of the present appeal, the Applicant-Ravindra Gorakhnath Nikam is directed to be released on bail on executing Personal Bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.

(ii) The Applicant shall attend the concerned Police Station every first Sunday of the Month between 04.00 p.m. to 06.00 p.m. for a period of two years from today.

(iii) Interim Application is disposed of.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)