

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

**APPLICATION FOR LEAVE TO APPEAL NO. 133 OF 2019
(STATE)**

The State of Maharashtra

...Applicant

Vs.

Sarafaraj Galedar Khan

...Respondent

Ms. Sangeeta E. Phad	APP for the Applicant-State.
None for the Respondent	

LATA
SUNIL
PANJWANI

Digitally
signed by
LATA
SUNIL
PANJWANI

Date:
2025.06.17
14:03:39
+0530

CORAM : S. M. MODAK, J.

DATE : 13th JUNE 2025

P. C. :-

Heard Ms. Phad, the learned APP appearing for the Applicant-State.

2. After condoning the delay on 16th September 2019 notice was issued to Respondent on 5th November 2019 in the leave application. There is affidavit of service filed by Police Sub Inspector, Vita Police Station. Notice is duly served on the Respondent-Accused. He has not appeared.

3. Learned APP has taken me through the evidence of witnesses. The

material witnesses are PW No.2,3 4 and 6. They are the occupants of the bus including driver and cleaner. The case is that a S.T. bus was dashed by a truck. The truck driver-Respondent drove the truck rashly and negligently. The trial Court acquitted the Respondent. Material reasoning find place in Para No. 18 of the judgment. There are two reasons:

- (i) evidence of eye witnesses is not corroborated and during cross-examination they have admitted about heavy traffic. The trial Court noticed material contradictions in their evidence.
- (ii) No independent witness is examined. All these witnesses are the occupants of the bus. If the occupants have deposed whether there is a need for independent witness, it is a question of appreciation.

About material contradictions, the learned Judge has not clarified.

4. The case for grant of leave is made out. Leave is granted and following order is passed:

ORDER

- (i) The Appeal is admitted.
- (ii) Action be taken against Respondent under Section 390 of Cr.P.C. and he be released on bail on furnishing Personal Bond and Surety Bond of Rs.15,000/-.

- (iii) He is expected to appear in this Court either personally or through Advocate.
- (iv) Stand over to **25th July 2025.**

[S. M. MODAK, J.]