

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3168 OF 2025
IN
CRIMINAL APPEAL NO. 679 OF 2025

Irphan Haidari Firoz Irani
At present in Kolhapur
Central Prison at Kolhapur.

...Applicant.

Versus

The State of Maharashtra.

...Respondent.

*Mr. Harshad V. Nimbalkar, Senior Advocate along with Mr. Satyam Nimbalkar,
Abhishek Ulhas Arote and Yash Vishal Saxena for the Applicant.
Mr. A. A. Naik, APP for the Respondent-State.*

Coram : M. S. Karnik &
Sharmila U. Deshmukh, JJ.

Date : October 15, 2025.

P. C. :

1. Heard Mr. Nimbalkar, learned Senior Counsel appearing for the Applicant. This is an application for suspension of sentence and for enlargement of Applicant on bail.
2. There are in all 5 accused. The Applicant is Accused No.5. Accused No.1 is the father of Applicant whereas Accused No.2 is the mother and Accused Nos.3 and 4 are his sisters.
3. The date of incident is 20th October 2017. The incident happened at around 8.30 a.m. in front of the house of accused. It is the allegation

that 2 of the accused caught hold of the deceased and Accused No.5 stabbed the deceased with knife.

4. Mr. Nimbalkar, learned Senior Counsel for the applicant invited our attention to the evidence of two eye-witnesses, namely, PW-9 and PW-10. PW-9 has stated that the deceased was stabbed in back whereas PW-10 has deposed that the Applicant stabbed the deceased in his stomach.

5. Learned APP while opposing the application submitted that the position of injury is such that it depends on the perspective of witness from where they had watched the incident and therefore this discrepancy is not material discrepancy in evidence.

6. Mr. Nimbalkar, learned Senior Counsel was at pains to point out that there are several omissions and improvements in the testimony of witnesses. He submits that there is attribution of single blow to the Applicant with knife. It is submitted that there are no adverse criminal antecedents. He invited our attention to the evidence of PW-8 who deposed that eye-witnesses PW-9 and PW-10 were standing next to him and he saw the deceased and 10 to 12 persons rushing towards the house of accused. It is therefore the submission that it appears that PW-9 and PW-10 are got up witnesses and their evidence is doubtful.

7. No doubt, the trial Court has rendered a finding that it is the accused who is responsible for stabbing the deceased. As indicated

earlier, this is a case of one stab blow which *prima facie* does not appear to be premeditated and hence the question will be whether the Applicant's intention was to cause death or not. However, for the purpose of considering this application for suspension of sentence we find some merit in the submission of learned Senior Counsel. The Applicant has undergone imprisonment for 4 years and 10 months. The Applicant was arrested almost 10 months after the incident is a factor to be considered for rejecting this application according to learned APP. The Applicant was enlarged on bail by the Hon'ble Supreme Court some time in January 2023 during the pendency of the trial. During the period the Applicant was on bail, there is nothing on record to indicate that he has misused the liberty. We are therefore inclined to suspend the sentence and enlarge the Applicant on bail, as the appeal is not likely to be heard in near future.

8. In the light of above, we pass the following order :

- [a] The sentence imposed on Applicant by learned Additional Sessions Judge, Sangli vide judgment and order dated 24th April 2025 passed in Sessions Case No. 17 of 2018 is suspended till the final disposal of Criminal Appeal No. 679 of 2025.
- [b] The Applicant be released on furnishing bail in the sum of Rs.50,000/- with one or more solvent sureties of like amount in connection with Sessions Case No. 17 of 2018.

- [c] Till the Criminal Appeal is disposed of, the Applicant shall report to the Trial Court on the 1st Monday of every third month commencing from November 2025.
- [d] The Applicant shall attend this Court when the appeal is listed for final hearing.
- [e] The Applicant shall not leave the country without leave of this Court.

9. Application stands disposed of.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]