

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CRIMINAL APPELLATE JURISDICTION

**INTERIM APPLICATION NO.3494 OF 2025
IN
CRIMINAL APPEAL NO.92 OF 2025**

Kiran Mahadev Waghmode	... Applicant.
V/s.	
The State of Maharashtra	... Respondent

Mr. Ritesh Thobde a/w Mr. Changdev Shingade a/w
Darshan Singh Rajpurohit for the applicant.

Mrs. S. N. Deshmukh, APP for the State.

**CORAM : M. S. KARNIK &
AJIT B. KADETHANKAR, JJ.**

DATED : 12th NOVEMBER, 2025

P.C.:

1. Heard learned Counsel for the applicant.
2. Learned APP vehemently opposed grant of application for bail. Having regard to the findings recorded by the Trial Court, learned APP submitted that this is not a fit case to enlarge the applicant on bail, merely because he was released on bail during trial. The appeal itself be heard finally.
3. It may not be possible for us to hear this appeal immediately. The date of incident is 19th October, 2021. Applicant who is the original accused No.1 was enlarged on bail in April 2024 by this

Court, during the pendency of the trial. The Trial Court convicted the accused by the judgment and sentence dated 15th January, 2025. There are three accused. So far as the accused Nos.2 and 3 are concerned, this Court by order dated 23rd July, 2025 has enlarged them on bail. This Court has, in paragraph No.12, observed that there are material improvements in testimony of PW-1. From the medical evidence, it is seen that there is one fatal injury on the deceased. The fatal injury is attributed to the present applicant/accused No.1. The deposition of PW-1 reveals that three accused ran towards the deceased and started abusing him. The reason is that there was some dispute over the agricultural land. PW-1 states that present applicant assaulted the deceased with an iron rod on the back side of the head. The medical evidence of PW-9- Dr.Samir Laxmanrao Bangar indicates that the contused lacerated wound on right temporo parietal region, 5 to 6 cms. was seen. The probable cause of death is due to hard and blunt object.

4. The applicant at the relevant time was 19 years of age. The applicant has been in custody for more than three years. There is nothing on record to indicate that he has misused his liberty when he was released on bail during trial.

5. This is a case of single blow by hard and blunt object. The learned APP has relied upon the decision of the Hon'ble Supreme Court in the Case of Gurumukh Singh Vs. State of Haryana reported in (2009) 15 SCC 635 and State of Rajasthan Vs. Leela Ram @ Leela Dhar in Criminal Appeal No.1441 of 2013 to submit that there is no universal rule that just because the case is of a single blow, the same would not attract conviction under Section

302 of the Indian Penal Code. There is no disputing this submission of the learned APP. In the present case, having regard to the nature of deposition of the PW-1, the question may arise as to whether the case falls under Section 302 and 304 Part-I or Part-II. In such circumstances, we are inclined to suspend the sentence. The applicant was on bail during trial. He has not misused the liberty.

6. The sentence of the Trial Court in Sessions Case No.10 of 2022 dated 15th January, 2025 is suspended during the pendency of the appeal.

7. Applicant is enlarged on bail on same conditions imposed by the Trial Court but by submitting fresh bonds.

8. Applicant shall remain report to the Sessions Court once every three months on the first Monday of concerned month commencing from December, 2025.

9. Applicant shall present when the matter is heard finally.

10. The application is disposed of.

(AJIT B. KADETHANKAR, J.)

(M.S. KARNIK, J.)