

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

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2751 OF 2025

IN

CRIMINAL APPEAL NO. 767 OF 2025

Prakash Shankar Gurav

... Applicant / Appellant

Versus

State Of Maharashtra

... Respondent

Mr. Omkar Nagwekar for the Applicant / Appellant.

Ms. Veera Shinde, A.P.P. for the Respondent.

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

Date : 2nd September 2025.

P. C. :

1. Heard Mr. Nagwekar, learned Advocate for Applicant / Appellant and Ms. Veera Shinde, learned A.P.P. for Respondent-State.
2. By judgment and order dated 25th June 2025 passed in Sessions Case No. 42 of 2022, the Applicant has been convicted for the offence punishable under Section 307 of Indian Penal Code and sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for 7 days. The present

application seeks suspension of sentence imposed by the Trial Court vide judgment and order dated 25th June 2025.

3. The F.I.R. was lodged on 16th December 2021. The Applicant was arrested on 16th December 2021. According to the prosecution, the Applicant-accused and the victim were known to each other and on the date of the incident were consuming alcohol. The Applicant-accused demanded a sum of Rs.10/- from the victim and upon refusal by the victim, the Applicant took out a sharp edged weapon (cutter) and attacked the victim on the neck. The victim suffered the following injuries :-

- (i) Incised wound from hyoid cartilage towards left side of neck near to vital structure of the neck. Size 7 cm x 3 cm x 1 cm.
- (ii) Scratch abrasion over left mastoid process.
- (iii) Incised wound over back of left ear pinna 2 cm x 1 cm x 0.5 cm.

4. Injury No.(i) is grievous in nature, whereas Injury Nos. (ii) & (iii) were simple in nature. The victim was discharged on the same day from the hospital. The evidence on record discloses that there was no previous enmity between the Applicant and the victim and the assault had taken place in state of intoxication.

5. Learned counsel for the Applicant submits that the incident

happened on the spur of the moment and there was no intention on the part of the Applicant to commit the offence.

6. Learned A.P.P. on the other hand supported the impugned Judgment and Order of conviction of the Trial Court and opposed the application.

7. The Applicant was arrested on 16th December 2021. During the pendency of the trial, he was released on bail on 18th February 2022. Pursuant to the Order of the Trial Court convicting the Applicant, the Applicant was arrested on 25th June 2025.

8. From the perusal of the material on record and in the facts and circumstances of the present case, *prima facie* we are of the opinion that the Applicant did not have intention to commit the offence, which happened on the spur of the moment.

9. The Applicant was on bail during the pendency of the trial. Learned A.P.P. on instructions submits that the Applicant has not misused his liberty when he was enlarged on bail. The present Appeal being of the year 2025, there is no possibility of the Appeal being heard in near future.

10. The fine amount has been paid. In this view of the matter, we are inclined to suspend the sentence of the Applicant and hence the following Order :

- (i) During the pendency of the Appeal, the Judgment and Order of conviction dated 25th June 2025 imposed by the Trial Court in Sessions Case No. 42 of 2022 stands suspended.
- (ii) The Applicant be released on the same terms and conditions as granted by the trial Court on 18th February 2022, while granting bail, but on fresh PR. bonds.
- (iii) Parties to act on an authenticated copy of this Order.
- (iv) Application is allowed in the aforesaid terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik]

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