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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 451 OF 2024  
IN  
CRIMINAL APPEAL NO. 189 OF 2023**

Rajendra Devidas Shirsath Alias Raju & Anr. ...Applicants

**Versus**

States of Maharashtra & Anr. ...Respondents

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Mr. Rahul Kasliwal a/w Mr. Mihir Kasliwal i/b Mr. Hardik Desai for the Applicants.

Ms Geeta P. Mulekar, APP for the Respondent-State.

Mr. Kuldeep S. Patil, for Respondent No. 2- CBI.

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**CORAM : SARANG V. KOTWAL &  
MANJUSHA DESHPANDE, JJ.**

**DATE : 24<sup>th</sup> JUNE 2025**

**P.C.:**

1. The Applicants have filed Criminal Appeal No. 189 of 2023 challenging the Judgment and Order dated 08<sup>th</sup> September 2022 passed by the Additional Sessions Judge, Malegaon, in Sessions Case No. 96 of 2011. The Applicant No. 1 Rajendra was the Original Accused No. 1. There were other two accused i.e. Accused No. 2 - Suradkar and the Applicant No. 2 Ajay Sonawane (Accused No. 3). At the conclusion of the trial, the learned Judge convicted

all three of them for commission of offence punishable under Section 302 r/w 149 of the IPC, Section 353 r/w 149 of the IPC and Section 506 r/w 149 of the IPC. The major sentence imposed on them was life imprisonment besides imposition of fine.

2. Heard Mr. Rahul Kasliwal, learned Counsel for the Applicant, Ms Geeta Mulekar, learned APP for Respondent No. 1- State and Mr. Kuldeep Patil, learned Counsel for Respondent No. 2- CBI.

3. This Application is preferred by both the Applicants. However, the Application is not pressed in respect of the Applicant No. 2.

4. The prosecution case is that, the deceased in this case was Additional Collector, Shri Yashwant Sonawane. On 25<sup>th</sup> January 2011, he was going from Nashik to Malegaon. He stopped at rest house at Chandwad and then they proceeded towards Nandgaon for visiting Tahasil Office. They reached Manmad and then they started towards Nandgaon. When their car reached Jondhalwadi Shiwar, at that time, Yashwant Sonawane, the Additional Collector

saw one tanker parked at a Dhaba, and he observed that some persons were infiltrating that with kerosene. He questioned them. The Applicant No. 1 was standing at the Dhaba. He called the owner of the Dhaba. His name was Popat Shinde. He arrived there with his son, who was a minor at that time. It is the prosecution case that, Popat's minor son assaulted Yashwant Sonawane with the heavy iron rod on his head. Popat Shinde called others to give him kerosene. It was brought and Popat Shinde poured kerosene on Yashwant Sonawane and set him on fire. In the process, Popat Shinde himself also suffered burn injuries. Yashwant Sonawane was completely burned and succumbed to his injuries. On this basis, the FIR was lodged and the investigation was carried out.

5. Learned Counsel for the Applicant submitted that, in this case the main accused was Popat Shinde, who had died at the time of incident itself. The main role is attributed to his son, who was a child in conflict with law at that time. The present Applicant No. 1 has not played any role at all. He submitted that the entire prosecution case revolves around the evidence of PW-2 and PW-21. There are major contradictions between the evidence of these

two witnesses. From the evidence of PW-21, it is quite clear that neither of these witnesses had actually witnessed the main incident of assault on the deceased and then setting him on fire. He submitted that there are major omissions from the police statement of PW-21, in particular, which go to the root of the matter. He submitted that the Applicant No. 1 was on bail during trial, as he was granted bail pursuant to the order passed under Section 167 of the Cr.P.C. He is taken in custody only after his conviction in the year 2022. The Applicant No. 1 has not misused the liberty and, therefore, he may be granted bail pending his Appeal.

6. Learned Counsel for the CBI on the other hand submitted that the evidence of PW-2 and PW-21 is sufficiently cogent. The prosecution has proved its case beyond a reasonable doubt. He submitted that, in any case PW- 2's evidence is not shaken in the cross-examination, it is absolutely trustworthy. It is a serious offence. The Applicant No. 1 was granted bail only on technical grounds. This should not be a factor in his favour for grant of bail. He relied on the evidence of PW-2, where the incident was

described in detail. The role of the Applicant No. 1 is also described in detail.

7. We have considered these submissions. PW-2 is Kailas Gawali, who was a driver of the vehicle in which the deceased Yashwant Sonawane was traveling. He has deposed about the incident right from they have traveled together from Nashik up to the incident of the deceased being set on fire. As far as the main incident is concerned, he has deposed that when they went to that particular Dhaba, there were some objectionable activity going on at that Dhaba, involving tanker bearing No. MH-21-6819 and using a truck bearing registration No. MH-41-5421. The deceased Yashwant Sonawane questioned the driver of the tanker, who informed that he was selling kerosene for livelihood. Yashwant Sonawane then started videographing of the incident on his mobile phone. The Applicant No. 1 was present there, he made a phone call and talked with someone. This was around 01:00 p.m. to 1:15 p.m. Within the short time, Popat Shinde and his son rushed to the spot on the two wheeler. Popat's son assaulted the deceased with heavy iron rod on his head. The other employees in the Dhaba, namely, the Applicant No. 2 Ajay, Machhindra and the

present Applicant No. 1 helped Popat Shinde, who told them to bring Rockel and to set the deceased on fire. PW-2 has specifically deposed that the accused Machhindra and the Applicant No. 1 ran towards the Dhaba and brought a kerosene can and handed it over to Popat Shinde. After that, Popat Shinde poured kerosene on Yashwant Sonawane. By that time, Yashwant had collapsed because of head injuries. Popat Shinde then poured kerosene on Yashwant and set him on fire. In the process, Popat also caught fire. PW-2 has further deposed that the Applicant No. 2 Ajay, Machhindra and the present Applicant No. 1 ran towards PW- 2 and others and threatened to pour kerosene on their persons. After that, PW-2 and others got into their car to save their lives and went away from the spot.

This particular portion deposed by PW-2 has practically remained unchallenged. There is no effective cross-examination of this witness on this main incident.

8. As far as PW- 21 is concerned, there is some discrepancy in his evidence and he has not stated that he had actually seen the incident of assault on the deceased and the incident of pouring kerosene on the deceased and setting him on fire. However, in his

examination-in-chief, he has deposed that the accused Ajay Applicant No. 2 was filling kerosene in the diesel tank of the truck. The Applicant No. 1 was present there, he was standing nearby. This witness then saw Popat Shinde and his son coming on the motorcycle. This witness himself was talking on phone. He saw that the truck and tanker went away from the Dhaba. PW-21, in the meantime, called Talathi Ahire. In the meantime, PW-2 approached him and told him that inmates of Dhaba had first assaulted Yashwant Sonawane and thereafter had set him on fire. When PW-2 and PW-21 were rushing towards Yashwant Sonawane, the employees of Dhaba including the present Applicant No. 1 rushed towards them with a can of kerosene. Therefore, to save their own lives, they went away in their car towards Nandgaon. This particular portion clearly corroborates the evidence of PW-2. This also indicates that though PW-21 might not have seen the actual incident of assault and setting the deceased on fire, but PW-2 had seen that incident and had described that incident to PW-21. Therefore, we do not find any discrepancy in the evidence of these two witnesses. The omission from these witnesses' police statement in respect of the Applicant No. 1 and others chasing them with Rockel can, does not go to the

root of the matter, because the evidence of PW-2 in that behalf is trustworthy.

9. It is not possible to dissect the evidence of the prosecution in minute details at this stage. Therefore, though the Applicant No. 1 was on bail during trial, after the trial was conducted and the evidence was laid, there is sufficiently strong material against the Applicant No. 1. It was a serious incident in which a public servant doing his duty was brutally murdered. The Applicant No. 1 has played an active role as is described by PW-2 and PW-21. There is sufficient evidence against the Applicant No. 1. No case for grant of bail during pendency of the Appeal is made out. The Application is accordingly dismissed. As mentioned earlier, this Application on behalf of the Applicant No. 2 was not pressed and, hence, it is dismissed in respect to Applicant No. 2 as not pressed.

**[MANJUSHA DESHPANDE, J.]**

**[SARANG V. KOTWAL, J.]**