

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

**INTERIM APPLICATION NO. 1089 OF 2024
IN
CRIMINAL APPEAL NO. 423 OF 2018**

Sandip Kaka Patil

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Kuldeep Patil i/b. Manthan Chaudhari h/f. Vivek Salunke for Applicant.

Mr. K. V. Saste, Addl. PP for State/Respondent.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.**

DATE : 1 JULY 2025

PC :

1. This is an application for bail preferred by the original accused No.10 for his release on bail during the pendency of his appeal before this Court. The Applicant along with 15 others were convicted for commission of the offences punishable under sections 302 and 201 r/w. Section 147 and 149 of the I.P.C. The major sentence imposed on him was life imprisonment.

2. Heard Mr. Kuldeep Patil, learned counsel for the

Applicant and Mr. Saste, learned Additional PP for the State.

3. The Applicant was arrested on 03.10.2012 and since then he is in custody, barring the period of one and half year for which he was on bail during the period of pandemic. Except for that period, he was in custody. About 12 other accused are already on bail during the pendency of their appeal.

4. The Applicant was, as mentioned earlier, the accused No.10 in Sessions Case No.24 of 2013 before the Additional Sessions Judge, Kalyan. The learned Judge, vide his Judgment and order dated 07.03.2018 convicted all the accused, as mentioned earlier.

5. The prosecution case is that, because of the previous enmity all these accused came together in two vehicles with weapons on 03.10.2012 at about 6:30a.m. They assaulted one Vikas Patil by their weapons causing fatal injuries.

6. Learned counsel for the Applicant submitted that the other accused are granted bail mainly because of the roles attributed to them as they had allegedly assaulted the deceased

with kicks and fist blows. The eye witness Eknath Patil has described the incident. He stated that the Applicant had given blows with a sword on the back of the deceased. The incident was dated 03.10.2012 and his statement was recorded on 16.10.2012. He has not stated in his police statement that he gave blows on the back of the deceased. He submitted that, if that omission from his police statement is taken into account, then no specific role can be attributed to the applicant and, therefore, he also deserves to be released on bail like others who are already granted bail.

7. Learned Additional P. P. submitted that the eye witness Eknath Patil had immediately informed about the incident to the father of the deceased and, therefore, though his statement was recorded subsequently on 16.10.2012, his disclosure about the incident to the father of the deceased was immediate. Learned Addl. PP. submitted that the said eye witness had given his statement U/s.164 of the Cr.p.c. and at that point of time there was no omission in that statement. This statement was recorded on 23.11.2012.

8. We have considered these submissions. In particular, we have perused the evidence of the eye witness Eknath Patil who was examined as PW-2. PW-3 Suresh Dalvi is also an important witness. However, he had reached the scene after the assault had taken place. PW-2 Eknath has described the incident. He has deposed that all the 15 accused had come to the spot together in two vehicles. They were carrying weapons like *gupti*, *sword* and *chopper*. They were saying that the deceased should be killed like a goat. They went to the door of Royal Deshi Bar. The deceased was opening the door of that bar. All the 15 accused started assaulting Vikas with fist and kicks blows. PW-2 has further deposed that the applicant gave blow of sword on the back of the deceased. Accused UmeshPatil had inflicted blow of *gupti* on the private parts of the deceased. Kabir Karbhari had cut the throat of the deceased by a chopper. However, as pointed out by the learned counsel for the applicant, the said witness PW-2 Eknath had not told the police at the time of recording his statement that the applicant had inflicted the blow of sword on the back of Vikas. The omission was in respect of the assault on the 'back'.

9. The other witness PW-3 Suresh Dalvi had seen 15 persons gathered at the spot. Out of them, he knew one Kabir Karbhari and the present applicant. They were going back in a four wheeler. At that time, the applicant was carrying a sword and their clothes were stained with blood. Thus, there is strong material against the present applicant. The omission brought out from his police statement is only in respect of situs on the dead body, but use of sword is consistently stated. The effect of recording of his statement will have to be considered at the final hearing stage. The deceased had suffered as many as 10 incised wounds all over his body. Apart from that, two incised injuries were on his private parts. One stab injury had pierced his heart. In short, this is a gruesome cruel murder. Therefore, though the applicant is in custody since 2012, we are not inclined to grant him bail pending his appeal. Instead, we are inclined to post this appeal for final hearing; high on board, so that the Appeal itself can be decided along with the companion appeals.

10. Hence, the following order:

O R D E R

- i) The Application is rejected.
- ii) The Criminal Appeal No.423 of 2018 along with all the companion Appeals be listed on the weekly final hearing board commencing from 04.08.2025; **High on Board.**
- iii) The Applicant is given liberty to renew his prayer for bail if the Appeal cannot be taken up for final hearing within a reasonable period.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)