

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

**INTERIM APPLICATION NO.1647 OF 2024
IN
CRIMINAL APPEAL NO.464 OF 2024**

Anil Meghdas PateniyaApplicant
Versus
The State of MaharashtraRespondent

Mr. Aniket Vagal, Advocate for the Applicant.
Mr. Arfan Sait, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 14th JANUARY, 2025

P.C. :

1. This is an Application for bail pending Appeal.
2. The Applicant was arrested on 2.6.2016 in respect of an incident which had allegedly taken place between the midnight of 1.6.2016 to 2.6.2016. The prosecution case is that the FIR is lodged by one Lalbahadur Sunar in respect of two dead bodies found having many incised wounds. One of the dead body was of the informant's son-in-law and the other dead body was of the cousin of the informant's son-in-law. C.R.

No.147/2016 was registered at Kalyan Taluka police station. The investigation was carried out.

3. The prosecution case is that on 2.6.2016, the Applicant and one more person was found in a suspicious circumstance. On their search, it was revealed that the Applicant was carrying a knife and penis of the dead body. This was a strong circumstance against the Applicant. Therefore, he was arrested. The investigation was carried out and then the charge-sheet was filed. The case was committed to the Court of Session vide Sessions Case No.336/2016 before the Additional Sessions Judge, Kalyan. The learned trial Judge, vide his judgment and order dated 12.12.2023, convicted the Applicant for commission of the offences punishable under Section 302 of IPC and sentenced him to suffer imprisonment for life and to pay a fine of Rs.15,000/- and in default to suffer RI for one year.

4. Heard Mr. Aniket Vagal, learned counsel for the Applicant and Mr. Arfan Sait, learned APP for the Respondent-State.

5. Learned counsel for the Applicant submitted that there were no eye witnesses to the incident. The case is based on the circumstantial evidence. The only circumstance against the Applicant is deposed by PW-2 regarding recovery of knife and a body part of one of the deceased from his pocket. That evidence is given by the police witness; no independent pancha is examined. All other main witnesses were declared hostile. There is no cogent evidence to show that the Applicant was last seen in the company of either of the deceased. He submitted that the record shows that the police had detained four to five persons, but only the Applicant and his companion were shown as accused. There is no explanation as to why the Applicant alone was made an accused. The other accused was a juvenile. He submitted that the prosecution has not brought any motive on record.

6. Learned counsel for the Applicant further submitted that though the CA report shows that there were blood stains on the knife, the prosecution's own case is that the Applicant had washed the knife and the place where the knife

was washed was shown by him to the police.

7. Learned APP opposed these submissions. He submitted that finding of that body part with the Applicant was very unusual. The C.A. report shows that blood stains were found on the knife. There is a strong material against the Applicant and, therefore, looking at the nature of injuries and the manner in which the offence was committed, no case for bail pending Appeal is made out.

8. We have considered these submissions. As submitted by both learned counsel, the main evidence in this case is that of PW-2 API Avinash Patil. He has stated that he was attached to Kalyan Taluka Police Station on 2.6.2016. One Lalbahadur Sunar came to his police station at around 12 p.m. and informed that his son-in-law Madan Sunar and one Raju Sunar were murdered by some unknown persons. Accordingly C.R. No.147/2016 was lodged. This witness i.e. PW-2 then started efforts to take search for finding and arresting the accused. He observed two persons at Titwala going in suspicious circumstances on a two-wheeler. PW-2 and his staff

stopped them. They did not give satisfactory answers. Therefore, both of them were brought to the police station. One of them was the Applicant and the other one was Vishalsingh Sonusingh Labhana, who was a child in conflict with law, aged 16 years.

9. The search on the person of the Applicant was taken and it was found that he was carrying a knife in his front pant pocket. On the back side of his pant the cut body part of the deceased was found. A panchnama was carried out, which is produced on record at Exhibit-23. The C.A. report shows that there were blood stains on the knife. Though the learned counsel has contended that the body part was not sent to FSL, finding of that body part in the back pocket of the Applicant itself is highly unusual. Absolutely no explanation is forthcoming. These two are the very strong circumstances against the Applicant.

10. At this stage, it cannot be believed that the police planted those incriminating articles and a body part on the person of the Applicant. The offence was committed in a most

cruel manner. The medical evidence shows that there were multiple stab wounds all over the bodies of both the deceased and there was also corresponding injury showing amputation of penis. This is another corroborative piece of evidence. It is not possible to record any finding in favour of the Applicant in view of this strong material against him. Therefore, no case for bail pending Appeal is made out. The Application is rejected.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)