

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

**INTERIM APPLICATION NO.2945 OF 2024
IN
CRIMINAL APPEAL NO.853 OF 2024**

Sakalsingh Haridas Pawar Applicant

versus

The State of Maharashtra Respondent

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- Mr. Ashley Cusher a/w Keerti Gupta a/w Avtar Singh, Advocate for Applicant.
- Ms. Sharmila S. Kaushik, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.
DATE : 10th OCTOBER, 2025**

P.C. :

1. This is an application for bail pending Appeal. The Appellant has challenged the Judgment and Order dated 29/02/2024 passed by the Additional Sessions Judge, Mumbai, in Sessions Case No.1055 of 2021. The Applicant was convicted for commission of offence punishable u/s 302 of the Indian Penal Code arising out of C.R.No.130/2021 registered with Vashi Railway Police Station, Mumbai. He was sentenced to suffer

rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default of payment of fine to suffer rigorous imprisonment for six months.

2. Heard Mr. Ashley Cusher, learned Counsel for the Applicant and Ms. Sharmila S. Kaushik, learned APP for the State.
3. The prosecution case is that the deceased Prashant was the Applicant's son. Prashant was 4 years of age. On 19/09/2021, a quarrel took place between the Applicant and his second wife Meher. At that time, the Applicant had beaten Prashant. On the next day i.e. on 20/09/2021 at about 07.30 a.m., the Appellant carried his son Prashant in his arms and claimed that his son was dead. His act of assaulting his own son was captured on CCTV footage. The FIR was lodged by the Applicant's brother. The investigation was carried out. Statements of witnesses were recorded and the Applicant faced the trial.

4. Learned counsel for the Applicant submitted that the case is based on circumstantial evidence. The CCTV footage is not reliable. There was nothing to show that the CCTV footage was zoomed in to see closely as to what had happened. P.W.1 is an unreliable witness. She is not a genuine witness. There was no neck injury, if the prosecution case is that the deceased was thrown on the platform by the Applicant. There was no certificate u/s 65-B of the Evidence Act. Therefore, the CCTV footage is not reliable.

5. On the other hand, learned APP submitted that the P.W.1 is a reliable witness. Even certificate u/s 65-B was produced on record. There is sufficient evidence against the Applicant. It is a serious offence. The Applicant is in custody since 20/09/2021. The sentence is for life imprisonment.

6. We have considered these submissions. The important witness is P.W.1 Reshma Shinge. She has narrated the incident. She used to sell masks in local trains between Sanpada to Koliwada. At the time of incident, she was sitting on the

platform at Sanpada Railway Station. At that time, one person threw one child on the platform for almost 2 to 3 times. One old lady snatched away that child to protect him. The child lay motionless. She did not know what happened thereafter. Subsequently, police contacted her and she was shown CCTV footage. She identified the Applicant as the person who had thrown the child on the platform. The Applicant was produced through video conferencing. There is hardly any cross-examination of this witness, which could have helped the defence.

7. The other important circumstance is the evidence of P.W.6 Vinod Shinde. He was a police constable attached to Mankhurd police station. He was on duty from 07.00 a.m. to 07.15 p.m. at RPF Mankhurd Police Station. He was assigned the duty of CCTV operation. He had shown CCTV footage to the police officers of Vashi Railway Police Station for the time between 08.30 a.m. to 08.45 a.m. In that CCTV footage the incident was captured, in which the Applicant had thrown small child two times on the platform. He has produced certificate u/s

65-B of the Evidence Act. It was produced at Ex.44. He identified the Applicant as the person who was seen in the CCTV. Thus, there is sufficiently strong material against the present Applicant. The offence is quite serious. The Applicant has assaulted his own son in cruel manner. Therefore, we are not inclined to allow this application. The application is rejected.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)