



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3515 OF 2024
IN
CRIMINAL APPEAL NO.1009 OF 2024

Vinay Motiram Tamhankar,
Age-51 years, Occu.-Labourer,
R/o. C/12, Shivam Society,
Opp. Kaka Dhaba, Haji Malang Road,
Kalyan (E), Thane, Maharashtra.
(At present in Kalyan District Prison, Kalyan.)Applicant

In the Matter in Between:

Vinay Motiram Tamhankar,
Age-51 years, Occu.-Labourer,
R/o. C/12, Shivam Society,
Opp. Kaka Dhaba, Haji Malang Road,
Kalyan (E), Thane, Maharashtra.
(At present in Kalyan District Prison, Kalyan.)Appellant

Vs.

1. State of Maharashtra,
(At the instance of Kolsewadi
Police Station).
2. Sakshi Sandesh Gadshi,
Age-34, R/At. Shivam Co-operative
Society Chawl, Room No.1,
Infront of Kakachya Dhaba,
Kalyan (E)- 421306.Respondents

WITH
INTERIM APPLICATION NO.3103 OF 2024
IN
CRIMINAL APPEAL NO.880 OF 2024

Narendra Narayan Aadvilkar,
Age-38 years, Occu.: Driver,

R/o. Chawl No.12, Shivam Society,
Opp. Kaka Dhaba, Haji Malang Road,
Kalyan (E), Thane, Maharashtra.

.....Applicant

In the Matter in Between:

Narendra Narayan Aadvilkar,
Age-38 yers, Occu.: Driver,
R/o. Chawl No.12, Shivam Society,
Opp. Kaka Dhaba, Haji Malang Road,
Kalyan (E), Thane, Maharashtra.

.....Appellant

Vs.

1. State of Maharashtra,
(At the instance of Central
Police Station).

2. Sakshi Sandesh Ghadashi,
Age-34, Occu.: Business,
R/At. Shivam Co-operative
Society Chawl, Room No.1,
Infront of Kakachya Dhaba,
Kalyan (E)- 421306.

.....Respondents

Ms. Anima Mishra with Mr. Anuj Singh, for the Applicants.
Ms. Kranti T. Hiwrale, APP, for Respondent No.1-State.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 10th MARCH 2025.

P.C.:-

1. Heard learned counsel for the Parties.
2. By these Interim Applications, the Applicants seek suspension of their sentences and enlargement on bail pending the hearing and final disposal of their aforesaid Appeals.

3. The Applicants have been convicted for the offence punishable under Section 302 read with 34 of the Indian Penal Code and are sentenced to suffer imprisonment for life. The Applicants also appear to have been convicted for the offences punishable under Sections 504 and 323 of the Indian Penal Code. As far as other sections are concerned, i.e., Sections 143, 147 read with 149 of the Indian Penal Code, Section 302 read with 149 and 323 read with 149 of the Indian Penal Code, the Applicants have been acquitted of the said offences.

4. Perused the papers. It appears that initially five accused were charged for various offences as stated aforesaid. After a full-fledged trial, three accused came to be acquitted and the aforesaid two Applicants came to be convicted as stated aforesaid. The prosecution case essentially rests on three eye witnesses, which includes the complainant-P.W.1. It appears from the prosecution case that the incident took place when accused No.4 was parking his rickshaw near the stall; that there was a verbal altercation between the deceased and the accused No.4, i.e, Vinay Tamhankar; that in the said quarrel, the Applicant-Vinay Tamhankar assaulted the deceased with fist and kick blows; that the accused No.1-Narendra Advilkar came to the spot and

strangled the deceased, as a result of which he became unconscious and later succumbed to his death. Admittedly, no weapon was used in the commission of the said offense. From the evidence on record, it *prima facie* appears that the incident took place at the spur of the moment and does not appear to be pre-meditated. It also appears that, the Applicant-Narendra Advilkar is in custody for about 7 years and Applicant-Vinay Tamhankar is in custody for about one year.

5. Considering the aforesaid evidence *qua* the Applicants and the fact, that the Appeals are not likely to be heard in the near future, the Applications are allowed and Applicants' sentences are suspended and they are enlarged on bail, pending the hearing and final disposal of their aforesaid Appeals, on the following terms and conditions:

ORDER

- i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount;
- ii) The Applicants shall report to the trial Court, once in six months on the day/date specified by the trial Court,

till their Appeals are finally disposed of;

iii) The Applicants shall keep the trial Court informed of their current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;

iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

6. The Applications are allowed on the aforesaid terms and are accordingly disposed of.

7. All concerned to act on the authenticated copy of this order.

(DR. NEELA GOKHALE, J.) (REVATI MOHITE DERE, J.)