

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

**INTERIM APPLICATION NO.4804 OF 2024
IN
CRIMINAL APPEAL NO.1241 OF 2024**

Suresh Pradeep Jaiswal Applicant
versus
The State of Maharashtra Respondent
.....

- Mr. Aamir Shaikh, Advocate for Applicant.
- Ms. Priyanka S. Rane, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
MANJUSHA DESHPANDE, JJ.
DATE : 27th JUNE, 2025**

P.C. :

1. The Applicant was the original accused No.3 in Sessions Case No.208 of 2017 before the Additional Sessions Judge, Thane. His case was separated from the other two accused Amit Gupta and Avinash Jaiswal. All three of them were convicted and sentenced. The Applicant's case was separated and he was convicted and sentenced vide the Judgment and Order dated 24/10/2024, for commission of offence punishable u/s 302 r/w 34 of the India Penal Code. He was sentenced to suffer life imprisonment and to pay a fine of Rs.1,000/- and in default of payment of fine to suffer further rigorous imprisonment of one month.

2. The prosecution case is that on 31/12/2016, P.W.1 Sachin More and P.W.4 Sunil Singh were with the deceased Vikas Upadhyay. They were friends. They had gone to a restaurant for dinner. It was Mayura Bar and Restaurant at Kapurbawadi. At about 12.45 a.m. in the midnight they left the restaurant for returning home. They were looking for Autorikshaw. They reached Majjiwada chowk. Vikas signaled to one white Wagon-R car and stopped the same. But then there was scuffle between Vikas and the passenger of the car. The car went ahead at some distance. In the meantime, P.W.1, P.W.4 and deceased Vikas were looking for an Autorikshaw. The passenger in the Wagon-R car and two other persons came back there. One of them assaulted Vikas with knife on his cheek and stomach. The others assaulted him with kicks and fist blows and then they tried to go away in an Autorikshaw. Some persons on the spot chased them and they were brought to the police station. P.W.1 lodged the FIR. Vikas succumbed to his injuries.

3. Learned counsel for the Applicant submitted that the main assailant Amit Gupta is granted bail pending his Appeal by

Division Bench of this Court vide the order dated 14/12/2023 passed in Interim Application No.2043 of 2023 in Criminal Appeal No.725 of 2024. The other co-accused is also granted bail by another Division Bench of this Court, vide the order dated 17/04/2023 passed in Interim Application No.1218 of 2023 in Criminal Appeal No.374 of 2023. Learned counsel therefore prayed for relief on parity.

4. Learned APP opposed this application. She submitted that he was absconding. Therefore his trial was separated. But she could not substantiate the argument that the Applicant was the main assailant.

5. We have perused the evidence of P.W.1 Sachin More and P.W.4 Sunil Singh. We have also perused the evidence of P.W.2 Dr. Bandopant Deshmukh. The deceased had suffered two incised and one stab wound causing his death. Thus, the main role is attributed to Amit Gupta who is already released on bail pending his Appeal. The Applicant had no independent motive to assault the deceased. There are no allegations that the Applicant had used any weapon. Therefore, the principles of

parity apply in his favour. However, considering that he was absconding for some time, some conditions are required to be imposed on him. With these conditions, we are inclined to grant bail pending his Appeal.

6. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.1241 of 2024, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with one or two sureties in the like amount.
- (ii) The Applicant shall report to Kapurbawadi Police Station on 1st Sunday on every month between 04.00 to 05.00 p.m.
- (iii) With these observations, the Interim Application stands disposed of.

(MANJUSHA DESHPANDE, J.)

(SARANG V. KOTWAL, J.)