

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

CRIMINAL APPEAL NO. 245 OF 2025

Kailas Khandu Dhotre

Age : 41 years, Occ :- Businessman

R/o: 701, D wing,

3898, Naishtionla road, Near Hanuman

Mandir, Anna Bhau Sathe Nagar,

Devji Nagar, Narpoli, Bhiwandi,

Thane, Maharashtra – 421 305.

(Currently lodged in Adharwadi

Prison, Kalyan West, Kalyan)

...Appellant

Vs.

1. The State of Maharashtra

(At the instance of Bhiwandi City,
Police Station in C.R. No. 302 of 2024)

2. Sunil Yadappa Bhosale

Age : 50 years, Occ: Rickshaw Driver,

R/o. Varaldevi Nagar,

Near Vilas Corry Khadi Machine,

Kamatghar Road,

Taluka Bhiwandi,

District Thane.

...Respondents

Mr. Aabad Ponda, Senior Advocate i/by Mr. Karan Jain	Advocate for the Appellant
Mr. Mohansinh Rajput	Appointed Advocate for the Respondent No. 2

Mr. A. S. Gawai	APP for Respondent-State
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CORAM : S. M. MODAK, J.

DATE : 17th OCTOBER 2025**JUDGMENT :-**

1. Heard learned Senior Advocate Shri Ponda for the Appellant, learned APP and learned Advocate for the Respondent No. 2.

2. The Appellant alongwith others is alleged of committing murder of one Sanket Bhosale. He is son of the first informant. The first informant belongs to reserve category. There are several incidents which took place on 14.02.2024, right from initial quarrel in front of B.N.N. college upto incident of noticing the injured at Rainbow hospital. The offence registered at Bhiwandi City Police Station, Thane. The charge-sheet is filed for an offence under Sections 302, 307, 367, 364, 143, 144, 147 and 148 of the Indian Penal Code and under Sections 3(1)(d), 3(1)(e), 3(1)(r), 3(2)(v) and 3(2)(va) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act.

3. In fact, initial quarrel took place in between two groups of boys. Amongst them, one is the deceased-Sanket and another is Deva Kailash Dhotre, who is son of the present Appellant. The prosecution

case is after these boys had disbursed from the spot, the quarrel had not stopped there, but due to involvement of the other persons including the Appellant, the quarrel has reached to the incident of assaulting the deceased by various persons. The deceased was taken on motorcycle and ultimately, he was found in auto rickshaw outside the Rainbow having bleeding injuries and in an unconscious state. It was also come on record that Deva-Son of this Appellant also got injured and there is separate offence registered.

4. During arguments, learned Senior Advocate Shri Ponda submitted that even if all these incidents are considered, no weapon is used by this Appellant. Even though in one incident there is presence of the Appellant but at no point of time, the Appellant tried to provoke the assailants to assault the deceased.

5. On the point of antecedents, he submitted that in majority of the offences, he is acquitted. Though learned Advocate for the first informant has placed on record filing of the Criminal Misc. Application No. 56 of 2025 before the Sessions Court for invocation of the MCOC Act, learned Senior Advocate Mr. Ponda has produced on record a copy of the order thereby dismissing such application for non-appearance. He submitted that the Appellant has remained in jail

for more than 18 months, there is no progress in the trial.

6. How the Court should deal with the antecedents, he relied upon the observations in the following judgments :-

(i) *Prabhakar Tewari Vs. State of Uttar Pradesh and Anr.*¹

(ii) *Maulana Mohammed Amir Rashadi Vs. State of Uttar Pradesh and Anr.*²

(iii) *Rajesh Kerkar Vs. State of Goa*³

(iv) *Mohd. Khalid Mukhtar Ahmed Shaikh @ Khalid Guddu Vs. The State of Maharashtra* in Bail Application No. 575 of 2022, decided on 27.06.2022.

7. By way of reply, learned APP and learned Advocate for Respondent No. 2 has submitted that this is a case wherein the Appellant tried to provoke, instigate and conspire other accused, who have assaulted the deceased. According to them, in any offence, it is not required that person should be always be an assailant, his role can be understood on the basis of the material collected during investigation. The submission is that the Court has to consider the manner of the commission of the offence and the circumstance in

1 (2020) 11 SCC 648

2 (2012) 2 SCC 382

3 (2023) SCC Online Bom 1313

which the offence took place. The Court has to consider about role of the accused and to what extent he is suspected and helped others accused to accomplish their task.

8. With their assistance, I have gone through the charge-sheet papers. The papers which are relevant for deciding these appeals are as follows :-

- (i) F.I.R. lodged by Sunil Bhosale, who is father of the deceased on 15.02.2024. After getting knowledge, he has visited Narpoli Police Station. It was disclosed that the deceased-Sanket was found outside the Rainbow Hospital in auto rickshaw in an injured condition and Deva Dhotre was admitted in Gurukrupa Hospital.
- (ii) On the basis of the information received, he has lodged the complaint against several persons including the Appellant.
- (iii) There is spot panchnama dated 15.02.2024, in respect of B.N.N. College. This is first spot wherein the boys have quarrelled with each other. The spot panchnama also mentions about the spot in front of Varhaldevi immersion ghat, Bhiwandi. This is second place

wherein the deceased was assaulted by several persons and in fact, he was also dashed with the help of motorcycle. They have seized one handkerchief from the said spot.

- (iv) There is one more panchnama described as spot panchnama dated 25.02.2024, however, it was on the basis of the information given by co-accused Ramnath Sonawane. The place which is unused house and at that place the deceased was kept in unconscious state of mind. This is at Sathenagar, Narpoli, Bhiwandi.
- (v) There is production about viewing CCTV footages. They were viewed with the help of one Javed Ali. The spot is in front of the office of one Mahendra Gaikwad, when three persons were seen going on motorcycle from Varhaldevi to Dhamankarnaka. The three persons fell down as the scooter has slipped.
- (vi) It is the prosecution case that amongst these three persons, one of them is deceased who was shifted from Varhaldevi temple to the place at Sathenagar.
- (vii) There is also another file wherein they have noticed

one Scorpio and scooty going towards Dhamankar Naka.

- (viii) There is one more CCTV view panchnama, wherein they have noticed one black colour Scorpio standing on the road which went towards Varhaldevi Nagar, they have also noticed one motorcycle and three persons sitting on the said motorcycle. Out of them, one person has not worn the shirt. He is identified by the witness as the deceased.
- (ix) There is one more file wherein the black colour scorio and motorcycle which is going from Varhaldevi ghat to Khadimachine road and one person standing outside the Scorpio which is identified as Dinesh More.
- (x) There is one more video wherein they have noticed motor cycle alongwith three persons and the persons without wearing shirt is deceased Sanket Bhosale.
- (xi) One witness Khandu Ubale has recorded the incident with the help of his mobile and recording is taken in pendrive and the panchnama is prepared.

The contents are as follows:-

- a) One person was found and he was sleeping on the ground and not wearing a shirt. He is identified as deceased-Sanket Bhosale.
- b) Few ladies were seen. Out of them, one Bhanubai is sister of the Appellant.
- c) Even the deceased is seen and few of the persons were seen as assaulting him and some of them were identified as Dinesh More, Karan Lashkar, Vishal Sabale and others.

Learned Senior Advocate Mr. Ponda submitted that in this recording of the incident, his client is not seen.

9. There is house search panchnama of this Appellant conducted on 28.02.2024, apart from the clothes, they have seized two mobiles and certain sim cards. The prosecution claims that the Appellant has tried to have a conversation with the co-accused on the date of the incident and CDRs are collected. The post-mortem report suggests that there are 28 injuries primarily on head, chest, and abdomen. The cause of the death is shock due to the injuries to the vital organs. There are certain statements recorded about incidents. They are as follows:-

- (i) In respect of the incident at BNN College, there are statements of one Suraj Bansode and Amol Shinde. After reading them, what is gathered is deceased-Sanket Bhosale had come alongwith his friends to have food at Chinese stall. Deva Dhotre, the son of the Appellant was also standing there alongwith his friends. One of the friend of Deva Dhotre was pushed unintentionally by the deceased and that is how quarrel took place, somehow it was pacified. The statement further mentions about arrival of the Appellant at the spot in the Scorpio vehicle.
- (ii) There are statements in respect of the incident that took place in front of Lake view restaurant at Varhaldevi immersion ghat. They are of Akash Shivaji Gaikwad, Khandu B. Ubale and others. It discloses that there were two sets of boys. One set came on the motorcycle and other set was standing on the road. The boys who have come on the motorcycle have beaten to the boys who were standing. The son of the Appellant was assaulted with certain weapon. Out of them one is deceased Sanket. Even Sanket was beaten. He has fallen down. Even the assailants tried to

give a dash to him with the help of the motorcycle. Though the Appellant has instructed them to pick up the boy and take him to home. Learned Senior Advocate Mr. Ponda emphasized on this aspect and submitted that his client has never instructed to kill said boy.

- (iii) The statement further discloses that the witness Khandu has called from the Rainbow hospital. **Sanket was found there.** On this background, it is relevant to see the statement of the witness-Khandu Ubale. On 14.02.2024, he has noticed Sunil Bhosale and others going towards Narpoli Police Station. On their say, he also visited the said Police station. They were told that there is quarrel in between the boys and one boy admitted in Gurukrupa Hospital. He has visited the said hospital. The first informant-Sunil was present there. He disclosed to Khandu that accused-Appellant has beaten his son and they have taken him to unknown place.

- (iv) The witness met Deva Dhotre at Gurukrupa hospital. Even the present Appellant was present there. The witness-Khandu inquired with the Appellant-Kailas Dhotre about

quarrel amongst the boys. However, he requested the Appellant to bring back the deceased. The Appellant assured to do the needful. The relatives of the deceased tried to search the deceased. Then Khandu realized at 5.30 p.m. that other boys were also searching the deceased-Sanket. They have given the number of Appellant to police and Police called the Appellant to Police Station. Later on, they went to Lotus Hospital. He was told that Sanket has sustained serious injuries and shifted to Rainbow Hospital.

(v) Witness-Khandu found the deceased in unconscious condition in auto rickshaw outside the Rainbow Hospital.

10. If the above materials are perused, what is noticed is, '*the quarrel started amongst the boys. However, subsequently, it has resulted into more serious incident in which the Sanket has sustained injuries and he has died*'.

11. Ultimately, for deciding the appeal, the Court has to consider all the incidents together and the Court has to consider whether there are materials to warrant the detention of the Appellant till conclusion of the trial.

12. No doubt there is no allegation that this Appellant has assaulted

the deceased personally, but other circumstances suggest that the Appellant was very much aware about quarrel in between the boys, being the father of Deva, one can understand that he is more worried about his son but at the same time, it is important that he has helped other boys directly or indirectly because at one instance he has also instructed the boys to bring Sanket home. Even the statement suggests about his conduct. He was asked about whereabouts of Sanket. Except assuring them that Sanket will be found, his conduct was not of such a nature which will be consistent with his innocence.

13. Ultimately, the Court is required to consider what are consequences of all these incidents. If considered from this angle, the involvement of the Appellant is disclosed. The Court simply cannot consider that the Appellant has not actually assaulted, but he being elder, his role is very important. There is reason to believe that his involvement with other boys is there to assault the deceased and even tried to shift him on motorcycle probably for hiding him so that the offence may not be unearthed.

14. The role of the Appellant as father of Deva Dhotre on one hand and his role so as to assist other boys on the other hand cannot be differentiated at this stage. So I do not think that the case for

interference in the order passed by the trial Court is made out. Hence, I have no alternative but to dismiss the appeal.

15. These are my *prima-facie* observations.

16. While dealing with the appeal, I have not taken into consideration the antecedents for the reasons, the materials collected above appeal to my conscious not to grant him bail. Hence, the following order:-

ORDER

- (i) Criminal Appeal is dismissed.
- (ii) Accordingly, Criminal Appeal is disposed of.
- (iii) Pending, Interim Application, if any, also stands disposed of.

[S. M. MODAK, J.]