

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2 OF 2025
IN
CRIMINAL APPEAL NO. 908 OF 2024

Sagar Dattatraya Tambde ...Applicant

Versus

The State of Maharashtra & Ors. ...Respondents

Dr. Yug Mohit Chaudhry a/w Mr. Hasan Nizami for the Appellant in
APEAL/908/2024 & Applicant in IA/2/2025.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 24th MARCH, 2025

P.C. :

1. Heard learned Counsel for the parties.
2. By this interim application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.

3. The applicant, vide Judgment and Order dated 29th March, 2017, passed by the learned Additional Sessions Judge, Pune, in Sessions Case No. 830 of 2012, has been convicted alongwith other co-accused for the offences punishable under Sections 302 r/w 34 of the Indian Penal Code. For the said offence, the applicant has been sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/-, in default of payment of fine, to suffer rigorous imprisonment for one year.

4. Learned Counsel for the applicant seeks bail, both, on merits as well as on the ground of long incarceration. He submits that there is a sole eye-witness to the said case i.e. PW-4 – Sheetal Santosh Kudale whose evidence if juxtaposed with the medical evidence shows that she was not present at the time of alleged incident i.e. when three persons were murdered. He submitted that if PW-4 – Sheetal had witnessed the incident, she would have certainly disclosed the same to her father, who had come to the spot and taken one of the injured to the hospital. He states that PW-4 – Sheetal's father had

disclosed to the Doctor that 7-8 unknown persons had assaulted, whereas, PW-4 – Shettal had named the accused. Learned Counsel for the applicant submits that the medical case history as well as the inquest panchanama shows that the father has disclosed incident of assault by 7-8 unknown persons, which is not in sync with the evidence of PW-4. He further submits that the applicant is in custody without remission for about 10 years and 10 months. Learned Counsel has tendered the certificate of imprisonment. The same is taken on record.

4. Learned APP vehemently opposed the application. She submits that three persons were brutally assaulted in the incident and that it is the applicant who had stabbed all the three persons with a knife. She submits that PW-4 is an eye-witness and her evidence is trustworthy, inasmuch as, she has immediately taken one of the person i.e. her brother to the hospital and had also informed her father, who took another injured to a different hospital. She submits that there is no cross-examination with respect to the actual assault which took

place, which is stated in detail in para 3 of PW-4's evidence. She submits that considering the manner of assault in which three persons were killed, the appeal be heard finally.

5. Perused the papers. The incident took place on 18th July, 2012. According to PW-4 – Sheetal, the applicant alongwith other two co-accused assaulted her brother – Sagar, brother-in-law and one, Sachin. PW-4 - Sheetal in para 2 of her evidence has in detail set out the sequence of events and the manner in which, the incident took place, including the assault by the applicant on the said three persons with a knife.

6. According to the learned Counsel for the applicant since the defence of the applicant is of denial and it is the applicant's case that PW-4 was not present on the spot, it was not necessary to take any denials which have come in para 3 of the evidence. Having gone through the evidence of the star witness i.e. PW-4 – Sheetal, there is no cross-examination on the same.

7. As far as the medical case papers are concerned, it appears that PW-4's father had given history of assault by 7-8 unknown persons. On the very same page, in the history it is recorded that PW-4 had seen the entire episode. PW-4 – Sheetal's statement has been recorded promptly. PW-4 in her entire evidence has not stated that she had disclosed the incident in detail i.e. names of the assailants to her father and that probably explains why the father was not aware of the names of the assailants.

8. Considering the evidence as stated aforesaid, we are not inclined to enlarge the applicant on bail.

9. However, since the applicant is in custody for more than 10 years, we deem it appropriate to fix the aforesaid appeal for final hearing on **30th April, 2025 at 2.30 p.m.**

10. The application is dismissed and accordingly disposed of.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.