

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

**INTERIM APPLICATION NO.97 OF 2025
IN
CRIMINAL APPEAL NO.441 OF 2022
WITH
INTERIM APPLICATION NO.1364 OF 2022
IN
CRIMINAL APPEAL NO.441 OF 2022**

Chandraprakash Laujariya Yadav Applicant

versus

The State of Maharashtra Respondent

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- Mr. Akshay Shetty a/w Mr. Prathamesh Vhanmane i/b. ABG Associates, Advocate for Applicant.
- Ms. Kranti T. Hiwrale, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
ADVAIT M. SETHNA, JJ.
DATE : 04th SEPTEMBER, 2025**

P.C. :

1. These are applications for bail and suspension of sentence pending final disposal of the Applicant's Appeal i.e. Criminal Appeal No.441 of 2022. This is the second time, the Applicant has made a similar prayer in this application. On the earlier occasion, he had preferred Interim Application No.1363

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of 2022 in Criminal Appeal No.441 of 2022 for his release on bail. On that occasion, the Division Bench of this Court had rejected this prayer for bail vide the order dated 20/01/2023.

2. Heard Mr. Akshay Shetty, learned counsel for the Applicant and Ms. Kranti T. Hiwrale, learned APP for the State.
3. Learned counsel for the Applicant submitted that the Applicant is in custody since 20/06/2014. Therefore, more than 11 years have passed. According to him, even after the rejection of his earlier Bail Application, more than two years have passed. Learned counsel submitted that on the previous occasion, it was not pointed out to that Division Bench that the Applicant was convicted only u/s 364 of the IPC and not u/s 302 of the IPC. The said order proceeds on the footing that the Applicant was convicted for the commission of offence punishable u/s 302 of the IPC as is reflected in paragraph No.2 of the said order.
4. We have considered these submissions seriously and we have perused the operative part of the impugned Judgment

and Order. We find substance in the submissions of the learned counsel for the Applicant that the Applicant is not convicted u/s 302 of the IPC and his role is distinguishable from the other two main accused. The Applicant was the original accused No.2 in Sessions Case No.689 of 2014 before the Additional Sessions Judge, Greater Mumbai. The learned Judge vide his Judgment and Order dated 18/05/2017 convicted the Applicant for commission of offence punishable u/s 364 r/w 34 of the IPC and sentenced him to suffer imprisonment for life and to pay a fine of Rs.2,000/- and in default of payment of fine to suffer simple imprisonment for one month. Vide the same impugned Judgment and Order, the accused Nos.1 and 3 were convicted for the major offences punishable u/s 302, 364, 201 r/w 34 of the IPC. They were also sentenced to suffer imprisonment for life. The accused No.4 was acquitted.

5. The prosecution case is that the victim in this case Abhishek eloped with the accused No.3's daughter from their native village in Uttar Pradesh. They came to Mumbai. But they were picked up by the father of the girl, i.e. the accused No.3

Gulab, his brother accused No.1 Subhash, and the present Applicant, who was working in the workshop of the accused No.1 Subhash. A Rikshaw was hired. The Rikshaw driver was known to the accused. They took the boy and the girl towards Nalasopara. At one place, the Rikshaw was stopped. The accused Nos.1 and 3 took the boy at a little distance towards Nalasopara. They came back without the boy. In the meantime, the Applicant, the Rikshaw driver and the girl were sitting in the Riskaw. The prosecution case is that the said boy was taken by accused Nos.1 and 3 at a secluded spot and they committed his murder. The investigation was carried out and the accused faced the trial.

6. Learned counsel for the Applicant submitted that the Applicant was merely an employee with the accused No.1. He did not know the intention of the accused Nos.1 and 3 to commit murder of Abhishek. Since he was working with accused No.1 Subhash, he had accompanied them to take Abhishek and the accused No.3's daughter home. His role is clearly distinguishable from the roles attributed to the main accused i.e.

accused Nos.1 and 3. He submitted that the most important evidence in this case is that of the deposition of P.W.2 Ramavadh Yadav, who was the Rikshaw driver and he had seen the major part of the incident except the actual murder. Learned counsel submitted that even the learned Judge has distinguished the Applicant's role and has convicted him only u/s 364 r/w 34 of the IPC and not u/s 302 r/w 34 of the IPC. There is no minimum sentence provided u/s 364 of the IPC. The Applicant is already in custody for over 11 years. Because of his good behaviour, he is in open jail. There is a strong possibility that the Applicant would be acquitted or at least his sentence would be reduced to the period which he has already undergone. Therefore, his Bail Application be seriously considered.

7. Learned APP submitted that from the narration of he P.W.2 it appears that the Applicant was aware of why the boy was taken towards Nalasopara. He had sat in the Rikshaw with the girl which would also indicate that he knew that the accused Nos.1 and 3 did not have good intention as far as the victim Abhishek is concerned.

8. We have considered these submissions. As rightly submitted by the learned counsel for the Applicant that the deposition by the P.W.2 Ramavadh is important. He has described the incident. He has deposed that he was knowing the accused No.3 Gulab and accused No.1 Subhash. He has deposed that the Applicant was working in the workshop of the accused No.1 Subhash.

9. On 27/05/2014, Subhash requested him to go to Kurla station and taken their relatives in Autorikshaw. On 28/05/2014, he met the accused Nos.1, 2 and 3 i.e. Subhash, Gulab and the Applicant at Kurla Terminus. Abhishek and that girl, aged about 14-15 years arrived in a train. The accused, that boy and the girl sat in his Rikshaw. The accused No.1 slapped Abhishek in the Rikshaw. P.W.2 asked him not to slap the boy, but the accused No.3 told him that Abhishek had eloped with his daughter and had ruined his image. Paragraph No.9 of his deposition is important. It mentions that Subhash and Gulab asked the Applicant to wait in the hotel (Dhaba) and said that

they would leave the boy and come back. That means the Applicant waited at the Dhaba. The Rikshaw proceeded ahead. It was driven by P.W.2. Subhash, Gulab and Abhishek travelled in that Rikshaw. It was stopped at some distance. Subhash and Gulab took Abhishek at some secluded spot and committed his murder. They came back. The narration of this incident is clearly shows that the Applicant was merely told that Gulab and Subhash intended to leave the boy and come back. There was no indication that they expected the Applicant to take part in their plan to commit murder of the deceased Abhishek. Therefore, at this stage, there is reason to consider seriously that the Applicant may not be aware of the intention of the accused Nos.1 and 3. In any case, he is convicted for the offence punishable u/s 364 r/w 34 of the IPC and not u/s 302 r/w 34 of the IPC. As rightly submitted by the learned counsel for the Applicant, there is a strong possibility of reducing his sentence considering his lesser role. There is no minimum sentence provided for the offence punishable u/s 364 r/w 34 of the IPC. The Applicant is already in custody for more than 11 years. Right now he is in the open jail.

10. Considering all these factors, we are inclined to grant bail to the Applicant, pending his Appeal.

11. Hence, the following order :

ORDER

(i) During pendency and final disposal of the Criminal Appeal No.441 of 2022, 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) Interim Applications stand disposed of accordingly.

(ADVAIT M. SETHNA, J.)

(SARANG V. KOTWAL, J.)