

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

INTERIM APPLICATION NO.356 OF 2025

IN

CRIMINAL APPEAL NO.133 OF 2025

Hari Nama Kavate

...Applicant

Vs.

State of Maharashtra & Anr.

...Respondents

Mr. Vivek Arote, for the Applicant.

Ms. Kranti T. Hiwrale, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL &

SHYAM C. CHANDAK, JJ.

DATED : 16th JUNE, 2025

PC. :-

1) This is an Application for bail and suspension of sentence during pendency of the Applicant's Criminal Appeal No.133 of 2025. That Appeal was preferred by the Applicant and his son Malu jointly. But the present Application for bail is preferred only by the present Applicant.

2) The Applicant was the Original Accused No.2 before the learned Additional Sessions Judge, Kalyan in Sessions case No.64 of 2015. At the conclusion of the trial, both the accused i.e. the Applicant and his son the Accused No.1 Malu were convicted for commission of offence punishable under Section 302 r/w Section 34 of the Indian Penal Code, 1860 and were sentenced to suffer R.I. for life and to pay a fine of Rs.2000/-.

3) The prosecution case is that, both the accused were suspecting character of Malu's wife Lalita. Malu and Lalita had got married on 12th April, 2014. On one occasion, she had come back to reside with her parent's house because of the harassment but the accused convinced her parents and took her back. The incident in question occurred on 20th October, 2014. The brother of the deceased was informed by the villagers that, his sister Lalita had died. He went to the house of the accused and saw Lalita's dead body. He then lodged the F.I.R. The allegations of the prosecution are that the accused assaulted her with a hard and blunt weapon on her neck causing her death.

4) Learned counsel for the Applicant submitted that the Applicant was on bail during trial and there are no allegations that he has misused that liberty. There is hardly any evidence against him. The prosecution case originally was that, the other accused i.e. the Applicant's son had committed murder of Lalita and then going to his roof had started shouting that he had committed Lalita's murder and that he also wanted to commit suicide. But, he did nothing further. The investigation was carried out. In all, 12 witnesses were examined by the prosecution. Most of them turned hostile and the prosecution has not proved its case.

5) Learned APP, on the other hand, submitted that the dead body of Lalita was found in the house which was occupied by both the accused. There were injuries on the person of the accused which have remained

unexplained and therefore, the prosecution has proved its case beyond reasonable doubt against the Applicant.

6) We have considered these submissions Lalita's brother Prakash is examined as PW1. He has narrated about the past conduct of both the accused of suspecting Lalita's character. But he was not aware about actual incident because it had taken place in the house of the Accused.

7) The evidence of the Medical Officer-Dr.Rawal, who is examined as PW10 shows that there was blunt injury on her neck. It was caused by a blunt object and it was a fatal injury. There were other injuries on the left shoulder and neck. There was an incised wound on the right hand above elbow. The cause of death was asphyxia due to tracheal compression and hypovolemic shock due to internal bleeding caused by trauma over neck. There were injuries to the accused Malu in the nature of nail scratch marks on the face and swelling on the right leg as well as abrasion on the lower back region. As far as the present Applicant is concerned, there was blunt trauma on lower back region. This is the entire evidence led by the prosecution which is of significance. The injuries on the person of the Applicant was in the nature of blunt trauma on the lower back region. It may not be a sign of struggle at the time of incident. Whereas there were nail scratch marks on the face and right hand of the Applicant's son Malu i.e. the other Accused. These could be signs of struggle at the time of the incident. The house was occupied by both the accused and Lalita.

Therefore, it cannot be said that the Applicant was in exclusive possession of the house. There is nothing to show that he was in the house at the time of incident.

8) Thus, we find that the evidence against the Applicant is of weak nature. Of course, these are only observations made for deciding the Bail Application. The entire evidence will have to be scrutinized at the final hearing stage. But at this stage, the Applicant has made out a case for his release on bail during pendency of the Appeal. The Applicant was on bail during the trial and he has not misused the same. Hence, the following Order :-

:: ORDER ::

- a) During pendency and final disposal of Criminal Appeal No.133 of 2025, the Applicant is directed to be released on bail on executing P R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- b) The Application is disposed of.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL J.)