

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
INTERIM APPLICATION NO. 656 OF 2025  
IN  
CRIMINAL APPEAL NO. 202 OF 2025

Kamlesh Rajdev Sahani ...Applicant

IN THE MATTER BETWEEN

Kamlesh Rajdev Sahani ...Appellant

*Versus*

The State of Maharashtra ...Respondent

---

**Mr Aamir Shaikh**, for the Applicant/Appellant.  
**Ms Geeta P Mulekar, APP**, for the Respondent-State.

---

SHEPHALI  
SANJAY  
MORMARE

Digitally signed  
by SHEPHALI  
SANJAY  
MORMARE  
Date: 2025.07.25  
18:24:47 +0530

**CORAM: SUMAN SHYAM &  
SHYAM C. CHANDAK, JJ.**

**DATED: 25TH JULY 2025.**

**PC:-**

1. Heard Mr Aamir Shaikh, learned counsel appearing for the Applicant/Appellant and Ms Geeta Mulekar, learned APP for the Rspondent-State.

2. The Applicant herein was the Accused No. 1, facing trial along with two other accused in Sessions Case No. 249 of 2018. On conclusion of trial, the learned Additional Sessions Judge, Thane, by Judgement and Order dated 6th July 2024, had convicted all the three accused persons under Section 302 of the

IPC read with Section 34 of the IPC and imposed the major sentence of life imprisonment.

3. Assailing the Judgment Dated 6th July 2024, the Applicant has preferred Criminal Appeal No. 202 of 2025 before this Court. The Appeal has already been admitted. By filing the instant Interim Application, the Applicant is praying for suspension of his jail sentence and also to release him on bail.

4. The learned counsel for the Applicant has invited our attention to the Order dated 21st January 2024 passed by the coordinate Bench (Coram: Mr Sarang V Kotwal and Mr SM Modak, JJ) in Interim Applications Nos. 3787 of 2024 and 3788 of 2024 and Interim Application No. 3336 of 2024 filed by the Accused Nos. 2 and 3 respectively seeking bail during the pendency of Criminal Appeals and by invoking the principle of parity, he has prayed for similar relief in this application.

5. The learned counsel for the Applicant submits that the prosecution case is entirely based on the last seen together circumstance, which is a weak piece of evidence. Taking note of the said fact, this Court had released the two co-accused by the order dated 20th January 2025. The evidence pertaining to the present Applicant also being one and the same and their conviction having been based on similar circumstances, by applying the principle of parity, submits Mr Shaikh, the Applicant be also released on bail.

6. Ms Mulekar, learned APP on the other hand submits that over and above the last seen together circumstance, there is also recovery of ornaments on being lead by the present Applicant and, therefore, there is additional evidence available against the present Applicant.

7. Learned APP further submits that the two jewellers have been examined as PW-6 and PW-7 and they have identified the jewellery as well as the accused from whom the ornaments have been recovered. On such ground she has resisted the prayer in the present Application.

8. The learned counsel for the Applicant has, however, controverted such submission of the learned APP by contending that sufficient evidence is not available on record so as to establish the guilt of the Applicant.

9. After going through the record and considering the submissions made at the bar, we find that the conviction of all the accused persons is by and large based on the last seen together circumstance as well as the recovery of ornaments of the deceased at the instance of the present Applicant. It *prima facie* appears that save and except the above two circumstances, the prosecution has not been able to establish the other links in the chain of circumstance so as to establish the charge brought against the accused persons. That apart, we also find that the evidence

brought on record against all the accused persons as substantially the same.

**10.** It also appears that there is a considerable time-gap between the time when the accused persons were last seen together with the deceased and the recovery of the dead body, which fact was also taken note of by the Division Bench while passing the order dated 20th January 2025 granting bail to the co-accused persons.

**11.** Having regard to the evidence on record, the prolonged incarceration of the Applicant as well as the facts and circumstances of the case, we do not find any justifiable ground to take different view in the matter. We are of the opinion that the Applicant is placed on similar footing as the Accused Nos. 2 and 3 who have already been released on bail. What would be the probative value of the testimony of PW-6 and PW-7 is a matter that can be considered at the stage of final hearing of the Appeal and the said aspect of the matter need not detain this Court for the present.

**12.** For the reasons stated hereinabove, we find force in the submissions of the learned Counsel for the Applicant that the present is a fit case for suspension of the jail sentence of the Applicant, by applying the principle of parity.

13. As such, we direct that the jail sentence of the Applicant, namely, Kamlesh Rajdev Sahani, shall stand suspended. Hence, we pass the following order:

**ORDER**

(a) The Applicant, Kamlesh Rajdev Sahani shall be released on bail during the pendency of the Appeal No. 202 of 2025 on his executing PR bond of the sum of Rs. 30,000/- with one or two sureties in like amount on the following further condition:-

- (i) The Applicant shall maintain good behaviour and shall not commit any offence or indulge in any anti social activity while on bail.
- (ii) The Applicant shall appear before the concerned Police Station on the first Saturday of every month between 1:00 p.m. to 4:00 p.m. and shall not leave the jurisdiction of the Thane District without prior permission of the trial Court.
- (iii) The Applicant shall not threaten or interfere in any manner with the complainant or any of other witness connected with this case.

14. It is made clear that violation of the above conditions shall be viewed seriously.

15. The observations made herein-above are *prima-facie* in nature and have been made for the limited purpose of disposing of the bail application.

16. The application is allowed in the aforesaid terms.

17. The Appeal be listed for final hearing on 8th September 2025.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)