

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

**INTERIM APPLICATION NO. 1306 OF 2025
IN
CRIMINAL APPEAL NO. 303 OF 2025**

Suresh Savlaram Mhatre & Anr.	..Applicants
Versus	
The State of Maharashtra & Ors.	..Respondents

Mr. Sudeep Pasbola, Sr. Advocate i/b. Umar Z. Kazi, Umar F. Nizami and Chinmay Godse for Applicants.
Ms. Geeta P. Mulekar, APP for State/Respondent.
Mr. Priyal Sarda for the Respondent No.2 to 5.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.**

DATE : 03 JULY 2025

PC :

1. This is an application for bail pending Appeal. The Applicants were the original Accused Nos.1 and 3, in Sessions Case No.218 of 2018, before the Additional Sessions Judge, Kalyan. There were in all six accused before the Trial Court. The learned Judge, vide his Judgment and order dated 06.03.2025 convicted all of them for commission of the offence punishable under sections 302 and 307 r/w. Section 149 of the I.P.C. The present

Applicants were separately convicted for commission of the offences punishable under sections 326, 323 and 324 of the I.P.C. They were also convicted under these heads separately for assaulting the witnesses. They were further convicted for commission of the offences punishable under sections 147, 148 336 and 201 of the I.P.C. and U/s.37(1) r/w. Section 135 of the Maharashtra Police Act. The major sentence imposed on all of them was imprisonment for life.

2. Heard Mr. Sudeep Pasbola, learned senior counsel for the Applicants, Ms. Geeta Mulekar, learned APP for the State and Mr Priyal Sarada, the learned counsel for the Respondent No.2 to 5.

3. The prosecution case is that the accused Ramesh was having a bungalow near the house of the deceased Dnyandev. On 03.03.2018, there was some quarrel between Ramesh and his family with the lady family members from Dnyandev's family. The quarrel escalated. It is alleged that both the applicants came at the spot with wooden logs. Ramesh said that, Dnyandev's family should be finished. Ramesh, Darshan and Pramod went running to

their bungalow. They brought weapons like axe, spade and iron rod. They assaulted Dnyandev with their weapons. The other accused also assaulted the other family members of Dnyandev. Dnyandev succumbed to his injuries on 06.03.2018. In the meantime, the F.I.R. was lodged. The investigation was carried out and the accused were arrested.

4. During the trial, the prosecution relied heavily on the evidence of four eye witnesses i.e. PW-1 to PW-4 and also on the medical evidence.

5. Learned senior counsel for the applicants submitted that, as far as the present applicants are concerned, there are only general allegations against them. They have not used any sharp weapon to commit assault on the deceased Dnyandev. The incident had occurred out of a sudden quarrel. They did not share any common object with the other accused who had allegedly given the fatal blows on the deceased. There are important omissions from the evidence of PW-2 Nana and PW-4 Jignu. The applicants were on bail during trial and there are no allegations that the said

liberty was misused.

6. Learned APP, as well as, learned counsel for the Respondent Nos.2 to 5 submitted that the evidence of all the eye witnesses is consistent and, therefore, even if the omissions from the police statements of PW-2 Nana and PW-4 Jignu are left out of consideration, the evidence of PW-1 and PW-3 is quite consistent. There is recovery of wooden log from the applicant Suresh and clothes from the applicant Jitin. They were a part of an unlawful assembly and, therefore, they are liable for the assault caused by the other accused Pramod on the deceased Dnyandev. They submitted that, even the present applicants are attributed the role of causing assault on the witnesses Nana and Gurunath. Therefore, their presence is established at the spot. On this basis, this application was opposed by them.

7. We have considered these submissions. As mentioned by learned counsel of both the sides, there are four important eye witnesses in this case. PW-1 Datta Rane was the nephew of the deceased Dnyandev. He had lodged the F.I.R. He described the

incident right from the inception. He was present at the spot right from the beginning. He has deposed that the incident had occurred on 03.03.2018 at about 10:30a.m. He was about to go for his daily routine of plying rickshaw. At that time, Dnyandev came in his vehicle and told him that the Accused Ramesh, Pramod and Darshan were abusing PW-1's aunt because of some quarrel regarding the drainage water on the road. PW-1 Datta and Dnyandev went to the spot. They saw that the accused Ramesh, Darshan and Pramod had obstructed the waste water and there was a quarrel going on. They were abusing the lady members of the informant's family. At that time, the present applicants and one Shatrughna (Applicant No.1 Suresh's other son) came there. The present applicants were having wooden logs in their hands. They started beating PW-1 Datta, his father Ananta and Dnyandev by means of wooden logs. In the meantime, the other accused Ramesh, Darshan and Pramod went running to their bungalow. They brought weapons like axe, iron spade and iron rod. Accused Pramod gave blows with axe on Dnyandev. Darshan and Ramesh also used their weapons.

8. PW-2 Nana has described the incident in the same manner. He added that, both the applicants assaulted Gurunath with wooden logs.

Learned senior counsel invited our attention to the omissions from his police statement in respect of weapons carried by all the accused and regarding his deposition that the accused were assaulting Dnyandev, Ananta and Datta with their weapons.

9. PW-3 Darshana Rane was present at the spot right from the beginning and she has also described the incident in the same manner as described by PW-1 Datta.

10. PW-4 Jignu Rane was another eye witness. He has also described the incident in the same manner. However, there is an omission from his statement recorded U/s.164 of the Cr.p.c. that his father Ananta, Dnyandev and Datta were assaulted by the accused. Therefore, even if considering the omissions from their previous statements, the evidence of PW-2 and PW-4 is left out; the consistent version is deposed by PW-1 and PW-3 about the assault and there is no inconsistency, as far as, their deposition is

concerned.

11. The incident had occurred out of a quarrel. The present applicants reached there with wooden logs and the role attributed to them is that they had used the wooden log in assault. After they had reached the spot, the other three accused named Ramesh, Darshan and Pramod went to the bungalow and brought weapons like axe, spade and iron rod. Then the assault was mounted on Dnyandev causing fatal injury. Therefore, at this stage, there is force in the submissions of learned senior counsel for the applicants that the applicants could not have shared common object of causing fatal injuries to Dnyandev. They had never participated in the quarrel and they had not caused any serious injury to any of the injured including the deceased. The P.M. notes in respect of Dnyandev show that, there was one fatal blow on the head and there were abrasions and contusions. As far as Gurunath and Nana are concerned, Nana had suffered one CLW. It was mentioned that, he was serious. But no further details are produced on record. Gurunath had suffered one *hematoma* on the temporal region. There is absolutely no further description of the

injuries suffered by Nana. Thus, it can be seen that the role attributed to the present applicants is distinguishable from the roles attributed to the other accused causing grievous injuries, in particular, to the deceased. Both the applicants were on bail during trial and there are no allegations that they had misused that liberty. In this background, we are inclined to grant bail to the applicants pending their appeal.

12. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.303 of 2025, both the Applicants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.25000/- each with one or two sureties each in the like amount.
- ii) The Application is disposed of.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)