

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1518 OF 2025
IN
CRIMINAL APPEAL NO.629 OF 2023

Amol Punaji Mane .. Applicant
vs.
State of Maharashtra .. Respondent

Mr. Narayan Rokade with Vijaykumar Swami with Abhang Suryawanshi with
Ramchandra Suryawanshi for the Applicant.
Ms. Priyanka S. Rane APP for the Respondent-State.

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

DATE : 12th JUNE, 2025

P C. :

1. This Interim Application was initially sent through jail with the
following prayer :-

*“This Hon’ble High Court be pleased to remand the
matter to the trial Court for a fresh decision after hearing
new learned Counsel for the appellant in the trial Court,
or any other counsel which has been engaged by the
appellant, or in the absence of these, an amicus curiae
being a lawyer practicing on the criminal side.”*

HEMANT
CHANDERSEN
SHIV

During pendency of this Interim Application, he engaged a
private Advocate Shri Narayan Rokade to argue this Interim Application.
Therefore, we have heard Shri Rokade, learned Advocate for the Applicant

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and Ms.Priyanka Rane, learned APP for the Respondent-State.

2. The Application is filed in Criminal Appeal No.629 of 2023. By the said Appeal, the Appellant has challenged the judgment and order dated 27/04/2023 passed by the Additional Sessions Judge-15, Pune in Sessions Case No.255 of 2010. The Applicant was convicted for commission of offence punishable under Section 302 of IPC and was sentenced to suffer life imprisonment. The Sessions Case pertains to the incident dated 08/11/2009 in which the Applicant had allegedly assaulted one Manoj Jadhav with a Rambo knife. The Appeal is admitted and is pending final disposal. It was admitted on 16/06/2023. The Application of the Applicant for suspension of sentence was rejected vide a reasoned order dated 23/07/2024 passed in Interim Application No.1992 of 2023 in Criminal Appeal No.629 of 2023. At that time he was represented by Advocate Shri Aniket Vagal. At the time of admission of the Appeal, he was represented by Advocate Shri Abhishek Kulkarni and now today, he is represented before us by Advocate Shri Narayan Rokade. Thus, it can be seen that at various stages, the Applicant was represented by different Advocates at least in the High Court. Now, at this belated stage, he has prayed for remanding back the matter, for fresh decision after hearing a new Counsel before the Trial Court.

3. Shri Rokade submitted that it was duty of the trial Court to

apprise the Applicant that a legal aid Counsel could be provided to him. The trial was conducted by the Applicant himself as party in person. He submitted that this was not proper representation and therefore, in the interest of justice, it is necessary to remand back the matter for fresh trial. Learned Counsel Shri Rokade relied on the judgment of the Hon'ble Supreme Court in the case of *Ashok vs. State of Uttar Pradesh* passed in *Criminal Appeal No.771 of 2024 dated 2nd December 2024*.

4. Learned Counsel fairly produced a copy of Exh.49 in the said Sessions Case. It is dated 26/03/2012. It is taken on record and marked 'X' for identification. There is no dispute about this Application and the order passed thereon. The argument of Shri Rokade was that it was the duty of the trial Court to inform the Applicant about his right to be represented by the legal aid counsel.

5. Learned APP submitted that initially, the Applicant was granted bail in the year 2009 but thereafter he was not available and his presence had to be secured through execution of non bailable warrant. She submitted that the Applicant is taking wrong advantage of the situation and is making unreasonable request for remanding the matter back after so many years. The Application is filed at a much belated stage, after his Bail Application was rejected in the pending Appeal.

6. We have considered these submission. It is necessary to refer to the Applicant's own Application preferred by him before the trial Court at Exh.49. It is specifically mentioned by him in that Application that, he had lost his job. He was not earning anything and therefore, he was not in a position to pay fees of his Advocate, who he had engaged. Therefore, he had decided to conduct his own case. More importantly, he has further specifically stated in the said Application itself that he did not want the Advocate given by the State. He has further stated in his Application that he had studied D.C.S. course i.e. Diploma in Computer Science and that he has studied law to some extent and that he could conduct the case confidently on his own. He had further requested the trial Court to permit him to make arguments and to conduct the trial. This was his specific request. On his prayer, the trial Court allowed that Application and he was permitted to conduct his trial. Accordingly, the Applicant himself conducted the entire trial. He conducted the cross examination and argued the case. But, ultimately he was convicted and sentenced. Thereafter, he has preferred the Appeal. Therefore, it is very clear that it was his desire to conduct the trial on his own. He did not want a legal aid counsel at all.

7. In Ashok's case, a reference is made to the case of *Hussainara Khatoon vs. Home Secretary, State of Bihar* as reported in (1980) Vol.1

SCC 98. Paragraph 7 of that judgment was reproduced in Ashok's judgment. A significant observation of the Hon'ble Supreme Court in the case of Hussainara Khatoon was that

"It was a constitutional right of every accused who was unable to engage a lawyer and secure legal services on account of poverty, indigence or incommunicado situation, the State was under a mandate to provide a lawyer to an accused, if the circumstances of the case and the needs of justice so required, provided of course the accused person does not object to the provision of such lawyer."

(emphasis supplied)

7.1 In the present case, quite clearly there was strong objection on the part of the Applicant for taking services of a legal aid counsel. This is a very important aspect in this matter.

8. In the concluding part of Ashok's judgment the Hon'ble Supreme Court has laid down as follows :-

"At all material stages, including the stage of framing the charge, recording the evidence, etc. it is the duty of the Court to make the accused aware of his right to get free legal aid. If the accused expresses that he needs legal aid, the trial Court must ensure that a legal aid Advocate is appointed to represent the accused."

(emphasis supplied)

8.1) In the present case, the Application at Exh.49 in the trial Court clearly shows that the Applicant was well aware of his right to get assistance of a legal aid counsel but he specifically did not want such services and therefore, it is quite clear that the Applicant had not only not expressed that he needed legal aid but he had objected for providing such legal aid counsel.

9) Therefore, in this situation, it is quite clear that the Applicant is misusing the judicial process and has made this prayer belatedly. It is not a bonafide Application and therefore, we are not inclined to allow this Application. The Application is accordingly rejected.

10) The Applicant is already represented by a private Advocate in the Appeal. The Appeal shall proceed in due course.

11) Interim Application No.1518 of 2025 is rejected.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)