

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

***INTERIM APPLICATION NO.2199 OF 2025
IN
CRIMINAL APPEAL NO.640 OF 2025***

Suresh Hiralal Sarwan

.... Applicant

Versus

The State of Maharashtra

.... Respondent

.....
Mr.Manoj M. Gadkari a/w. Kiran P. Jadhav, Advocate for the
Applicant.

Ms.Priyanka S. Rane, APP for Respondent – State.

.....

***CORAM : SARANG V. KOTWAL &
MANJUSHA DESHPANDE, JJ.***

DATED : 26.06.2025

P.C. :

1. This is an Application for suspension of sentence by granting bail during pendency of the Applicant's Appeal. He was the original Accused No.9 in Sessions Case No. 105 of 2018 before the learned Additional Sessions Judge, Baramati, District Pune.

2. The learned Judge vide his judgment and order dated 30.04.2025 convicted the Applicant along with others for commission of offences punishable under Sections 302, 341,143,

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148 and 506 read with Section 149 of the Indian Penal Code, 1860 (hereinafter referred to as, "IPC" for short). The major sentence imposed on the Applicant was life imprisonment besides imposition of fine of Rs. 25,000/-.

3. Mr. Manoj M. Gadkari, learned Counsel for the Applicant and Ms. Priyanka S. Rane, learned APP for the Respondent-State.

4. The prosecution case is that due to previous enmity, on 03.05.2018 at about 08:00 p.m., all the Accused, who were about 15 in number, encircled one Vinod Narwal and assaulted him with deadly weapons causing his death. The investigation was carried out and all the Accused faced the trial. The main evidence against the Accused in this case is in the form of the deposition of two eye witnesses, namely, Meena Narwal (PW-1), who was wife of the deceased and one Usha Wadmare (PW-2), who was her neighbour.

5. Learned Counsel for the Applicant submitted that he was granted Anticipatory Bail during the investigation and thus, he was on bail during the entire Trial. He further submitted that PW 1-Meena Narwal has not attributed a specific role to the Applicant. She has only mentioned about the Applicant's

presence along with the other Accused. He further submitted that PW 2-Usha Wadmare has not even named the Applicant. She made a general statement that all the Accused were present at the spot. She has specifically named Sanjit, Sujit, Ranjit, Ravi and Akash. Specific weapons are attributed to only these Accused. They were attributed specific role of assault with deadly weapons. There was no recovery at the instance of the present Applicant. There are no criminal antecedents.

6. Learned APP submitted that both these witnesses have deposed that the other Accused were present at the spot. PW-1 has deposed that the Applicant was also one of the Accused who had encircled the deceased. They were members of unlawful assembly and therefore, they are equally liable under Section 149 of the IPC.

7. Learned Counsel for the Applicant further submitted that a Co-accused Shobha Valmiki, who was similarly situated with the similar allegations and similar evidence was granted bail, pending her Appeal vide order dated 11.06.2025 passed in Interim Application No. 1980 of 2025 in Criminal Appeal No. 567 of 2025. He claims parity for an order of bail in favour of the present Applicant.

8. We have considered these submissions and we have perused the evidence of PW-1 and PW-2.

9. As rightly submitted by the learned Counsel for the Applicant, at the highest, the witness has stated that the Applicant was one amongst the other Accused, who had encircled the deceased, but the actual assault with deadly weapons was committed by the aforementioned Accused, i.e., Sanjit, Sujit, Ranjit, Ravi and Akash. Similarly, PW-2 has also attributed the specific weapons and roles to only these Accused. The effect of application of Section 149 of IPC, in this background and on the basis of this evidence, will have to be tested at the final hearing stage. It is also important to note that the Co-accused Shobha Valmiki, who was the Original Accused No. 13, is granted bail, pending her Appeal. Therefore, in this case, parity applies in favour of the Applicant.

10. On all these grounds, the Applicant deserves to be released on bail during pendency of this Appeal. Hence, the following order :

ORDER

(i) During pendency and final disposal of the Applicant's Criminal Appeal No. 640 of 2025, the

Applicant is directed to be released on bail on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.

11. Interim Application stands disposed of.

[MANJUSHA DESHPANDE, J.]

[SARANG V. KOTWAL, J.]