

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

**INTERIM APPLICATION NO.2283 OF 2025
IN
CRIMINAL APPEAL NO. 720 OF 2025**

Kiran @ Swapnil Laxman WaghApplicant
Versus
The State of MaharashtraRespondent

Mr. Shrikant R. Gadade, Advocate for the Applicant.
Ms. Geeta P. Mulekar, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
ADVAIT M. SETHNA, JJ.**

DATE : 18th AUGUST, 2025

P.C. :

1. This is an Application for bail pending Appeal.
2. The Applicant was the original accused No.1 in Sessions Case No.388/2018 before the Sessions Judge, Nashik. There were two other accused and both of them i.e. accused Nos.2 & 3 were acquitted. The Applicant was convicted for commission of the offence punishable under Section 302 of IPC. He was sentenced to suffer imprisonment for life and to pay a fine of Rs.5,000/- and in default to suffer SI for three months. He was also convicted for commission of the offences punishable

under Sections 323, 504 and 506 of IPC, for which lesser sentence was imposed. The major sentence was life imprisonment for the offence under Section 302 of IPC.

3. Heard Mr. Shrikant Gadade, learned counsel for the Applicant and Ms. Geeta Mulekar, learned APP for the Respondent-State.

4. The prosecution case is that on 1.7.2018 the Applicant, with the help of two others, inflicted stab injury on one Dinesh Hiranman Jadhav causing his death. The Applicant was arrested on 4.7.2018. Subsequently, he was released on bail. After his conviction, he was again taken into custody and since then i.e. from 8.10.2024 the Applicant is in custody.

5. Learned counsel for the Applicant submitted that the version of the eye witnesses is not consistent. It is not reliable. There were three witnesses examined i.e. PW-1 Yogesh Mali, PW-5 Bhushan Bhadane and PW-6 Samadhan Deore as eye witnesses. Out of whom, PW-6 Samadhan has given contrary statement under Section 164 of Cr.PC.. PW-5 Bhushan was not knowing the assailants. PW-1 Yogesh Mali's evidence is not

reliable because he was an interested witness.

6. Learned counsel further submitted that the evidence shows that the incident was captured in the CCTV but the pen-drive of that CCTV footage was not produced before the Court.

7. Learned APP, on the other hand, submitted that there is no contradiction in the version given by PW-6 Samadhan in his statement recorded under Section 164 of Cr.P.C.. She further submitted that just because PW-1 Yogesh Mali was knowing the deceased that does not make him an interested witness and does not certainly make him an unreliable witness. She further submitted that there is recovery of a blood stained knife at the instance of the present Applicant.

8. We have considered these submissions and with the assistance of both learned counsel we have perused the evidence annexed to this Application. The most important witness in this case is PW-1 Yogesh Mali who was knowing the Applicant as well as the deceased Dinesh in this case. He has described the incident. On 1.7.2018 at about 3.15 p.m. the Applicant started abusing PW-1. There was some exchange of words. In the

evening at about 6.15 p.m., PW-1 went to the parking place. At that time, the Applicant and his two companions approached him and started assaulting him with kick and fist blows. Therefore, to save himself, he ran inside the company. At that time Bhushan Bhadane (PW-5) and Samadhan Deore (PW-6) were present inside. The deceased Dinesh was also present. Dinesh tried to protect PW-1 and he stopped the Applicant. At that time there was quarrel between the deceased and the Applicant. The Applicant's companions held Dinesh's hands. The Applicant gave a blow with a knife on his abdomen. The others raised shouts. The Applicant and his companions went away from the spot. PW-1's evidence is quite clear. He has described the evidence in detail. There is nothing in his cross-examination which makes his evidence doubtful. The defence has not brought out any contradiction from his previous statements. No explanation was sought from him about any such contradiction.

9. At this stage, we find that the PW-1's evidence is quite damaging against the Applicant. PW-5 Bhushan Bhadane

was not knowing the accused and he was not asked to identify them in the test identification parade. But, he identified the Applicant in the Court and he attributed a specific role to him.

10. PW-6 Samadhan Deore is another important witness. He has described the incident in the same manner as is described by PW-1. In addition he had identified the accused in the test identification parade.

11. The evidence of PW-10 Tahsildar Gavali shows that PW-6 Samadhan had identified the Applicant in the test identification parade. The medical evidence shows that the deceased had suffered a stab injury of the size 5.8 cm x 1.2 cm x 16 cm. over the outer aspect of back of left side of abdomen. The injury was quite serious, resulting in his death.

12. Thus, at this stage, we find that there is sufficiently strong material against the present Applicant. No case for bail pending his Appeal is made out. The Application is rejected.

(ADVAIT M. SETHNA, J.)

(SARANG V. KOTWAL, J.)