

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

**INTERIM APPLICATION NO. 2480 OF 2025
IN
CRIMINAL APPEAL NO. 750 OF 2025**

Prashant Sampat Konde Applicant

V/s.

State of Maharashtra Respondent

Mr. Ashraf Ali Shaikh a/w. Mr. Ibrahim Shaikh, for the Applicant.
Mr. Hitendra Dedhia, APP for the State.

CORAM : R.M. JOSHI, J.

DATE : 11th NOVEMBER, 2025.

PC:-

1. This application is for suspension of sentence and enlargement of the appellant on bail in connection with the Judgment and Order dated 23.04.2025 passed in Sessions Case No. 286 of 2015 whereby the accused is convicted for the offences punishable under Section 304(II) of Indian Penal Code, 1860 ("IPC") and sentence to suffer 10 years imprisonment with fine.
2. Learned counsel for the appellant submits that the Trial Court has held that the offence under Section 302 not been proved against the appellant. It is his further submission that the prosecution has withheld / suppressed the first dying declaration

recorded of the deceased. It is his submission that the said dying declaration has been proved by examining police officer as a defence witness. It is further argued that in view of the admitted fact that the appellant had extinguished the flames, this is not the case of conviction of the appellant. It is his argument that in all period of over 2 years is spent by the appellant behind the bar and since there is no likelihood of the appeal being taken up for hearing for a short time, appeal shall become infructuous if he is not enlarged on bail.

3. Learned APP opposed the application by relying upon the evidence of Police Officer and police constable has recorded second dying declaration which according to him indicates that it was the appellant who has relate the deceased.

4. Though the appellant was charged for the offence under Section 302 of IPC, the Trial Court had held the said offence to be not proved. There is no dispute about the fact that the statement of the deceased was recorded at the first instance which was not brought by the prosecution on record. The defence however examined the concerned police officer who has recorded the said statement and proved the same. The said statement needs to be considered in the light of admitted fact that it was the appellant

who has tried to extinguish the flame with his hands and in the process sustained injuries requiring his hospitalization. All these facts clearly show that the appellant has a good case on merit in the appeal. The appeal is not likely to be taken up for hearing in a short period of time hence application stands allowed. The appellant has no criminal history and is not likely to flee from justice.

5. In view of above, following order:

ORDER

- (i) The application stands allowed.
- (ii) The substantive sentence imposed against the appellant by the Judgment and Order dated 23.04.2025 passed in Sessions Case No. 286 of 2015 stands suspended.
- (iii) The appellant be enlarged on bail on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

6. The application stands disposed of.

(R.M. JOSHI, J.)