

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3066 OF 2025
IN
CRIMINAL APPEAL NO. 856 OF 2025**

Kalu Kisan Korade

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Mihir Kasliwal i/by Rahul Kasliwal for the Applicant.
Ms. Kranti Hiwrale, APP for the State.

**CORAM : SARANG V. KOTWAL &
ADVAIT M. SETHNA, JJ.
DATE : 20 AUGUST 2025**

P.C.:-

1. This is an application for bail pending Appeal. The Appeal is already admitted by a separate order. The Applicant was convicted by the Additional Sessions Judge, Nashik vide judgment and order dated 3 July 2025 in Sessions Case No.178 of 2024 for commission of offence under Section 302 of the Indian Penal Code, 1860 (for short “**IPC**”). The Applicant was sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- and in default to suffer simple imprisonment of three months. The Applicant is acquitted for the offence punishable under Sections 323 and 504 of the IPC.

2. Heard Mr. Kasliwal, learned counsel for the Applicant and Ms. Hiwrale, learned APP for the State. The incident in question occurred on 4

March 2024 in the village Chandrachi Meth, Post Deogaon, Taluka Trambakeshwar, District Nashik. The deceased Shivram Lahamate and the Applicant were residents of the same village. In the evening on the date of the incident, Shivram and his friend Mahendra had gone to another village to bring oil. They returned in the evening. They were followed by the Applicant. He started abusing them. He was angry because they had not allowed him to travel with them in their vehicle. According to Shivram he did not permit him to travel with him because the Applicant was under the influence of liquor. It is the case of the prosecution that after this quarrel, the Applicant came back to the courtyard of the deceased's house and gave a blow with stone on the back of head of Shivram. He fell down. His mother and wife rushed there. He was taken to one hospital and then was shifted to another hospital. He succumbed to injuries on 7 March 2024. In the meantime, initially the offence was registered under Section 307 of IPC and after Shivram's death, Section 302 of IPC was added.

3. Learned counsel for the Applicant submitted that the prosecution case entirely depends on the evidence of the solitary eye witness PW-3 Shantabai, who was the mother of the deceased. His son and wife were also examined, but they admitted that they have not seen the incident. He submitted that the cross-examination of the PW-3 indicates that even she had not seen the incident and only because of the previous quarrel, the Applicant was implicated in this case. Learned counsel

submitted that the Applicant was on bail during the trial and there are no allegations that he had misused his liberty during that period.

4. Learned APP submitted that PW-3's evidence is clear enough. She had seen the incident. She was present in the courtyard and therefore based on her evidence, the conviction was properly recorded.

5. We have considered these submissions. The medical evidence shows that the deceased had suffered a head injury of the size 6 x 1.5 cm on the left side of parietal region with fracture of skull bone. Head injury was the cause of death. It had caused cerebral damage. The question is whether the Applicant was author of the injury and whether the evidence of the only eye witness is strong enough to convict the Applicant. We have perused the evidence of PW-3 Shantabai Lahamte, who has described the first part of the incident that the quarrel had taken place between the Applicant and the deceased. After that she has described the main incident. She has stated that Shivram came back after 15 minutes. She was at some distance. The deceased was in the courtyard. The Applicant assaulted on the back of Shivram's head. Shivram shouted and fell down. She herself and her daughter-in-law went running towards him. In the cross-examination she deposed that at that time she was cooking in the kitchen. She heard shouts of Shivram. Then she added that she was in the courtyard and she and her daughter-in-law lifted him. She has further deposed that she saw that Shivram was lying and blood was oozing from his head. She went close

to Shivram and asked him as to what had happened. He could not answer as he was unconscious. Then she volunteered that the Applicant ran away. The cross-examination discloses that at that time she was in the kitchen, she was cooking. She came out only after hearing shouts. The very fact that she had asked Shivram as to what had happened indicates that she had not seen the incident. All these aspects raise sufficient doubt at this stage. All these issues will have to be decided at the final hearing stage. However, based on the solitary eye witness's evidence, it does not appear to be beyond reasonable doubt at this stage. We are inclined to grant bail to the Applicant. He was on bail during trial. There are no allegations that he had misused his liberty during that period. Hence, following order is passed:-

O R D E R

- i. During pendency and final disposal of the Applicant's Criminal Appeal No.856 of 2025, the Applicant is directed to be released on bail on his executing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- ii. The Application is disposed of.

(ADVAIT M. SETHNA, J.)

(SARANG V. KOTWAL, J.)