

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

**CRIMINAL APPLICATION NO. 3544 OF 2025
IN
CRIMINAL APPEAL NO. 1042 OF 2025**

Santosh Goutam Kharat Applicant

V/s.

State of Maharashtra Respondent

Ms. Pooja Dongre i/b. Mr. Girish Nagori, for the Applicant.
Mr. Ashok S. Gawai, APP for the State.

CORAM : R.M. JOSHI, J.

DATE : 11th NOVEMBER, 2025.

P. C:-

1. This application is for suspension of sentence and enlargement of the appellant on bail in connection with the Judgment and order dated 20.05.2025 passed in session Case No. 68 of 2014 by learned Additional Sessions Judge, Malegaon whereby the appellant and the co-accused were sentenced to suffer imprisonment of 10 years with fine.

2. Learned counsel for the applicant seeks the suspension of sentence as well as enlargement of the appellant on bail on the ground of parity. It is her contention that all co-accused except for the appellant other convicts are enlarged on bail after suspension

of sentence. She placed on record order dated 25.07.2025 passed in I.A. No. 2439 in Criminal Appeal No. 698 of 2025 to support her contention. She claims that there are no criminal antecedents against the appellant and he is not likely to flee from justice.

3. Learned APP opposed the application on the ground that the role of the present applicant differs from the co-accused. As far as antecedents are concerned, learned APP on instructions makes statement of there being no criminal history against the appellant.

4. Though it is sought to be argued by learned APP that the role of the present appellant differs than the co-accused, it would be relevant to consider the observations made by this Court in order dated 24.07.2025 (supra). It would be fruitful to take note of paragraph No.7 of the same order which reads thus :

“7. In this context, the cross-examination of PW-4 is also important. PW-4 Chunaram had admitted in his cross-examination that, he had not seen as to who had stabbed on his chest and stomach and that he had not seen the offender who had taken away his mobile phone and gold ring. He further admitted, that the police had shown the offenders to him. Therefore, there is substance in the submission of the learned counsel for the applicant that there was no proper identification of the applicant and other accused. That being the only evidence, the applicant deserves to be released on bail. Based on this discussion, I am inclined to grant bail to the applicant on certain conditions.”

Thus, prima facie above finding recorded by the Court indicates that there cannot be any distinction made into the role

of the accused persons in the crime in question. There is no criminal history against the appellant and is not likely to flee. This is a fit case for parity, hence allowed on same terms.

5. In view of above, following order:

ORDER

- i. The application stands allowed.
- ii. The substantive sentence imposed against the accused by the impugned Judgment and Order dated 20.05.2025 passed in Sessions Case No. 68 of 2014 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 applications is disposed of.

(R.M. JOSHI, J.)

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