

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 4041 of 2025
in
CRIMINAL APPEAL NO. 1068 of 2025**

Vikas Phulchand Jaiswal

... Applicant/s
Appellant/s

versus

The State of Maharashtra

.... Respondent/s

Mr. Zoheb Shaikh, Advocate for the Applicant/Appellant.
Mr. H. J. Dedhia, APP for Respondent-State.

**CORAM : R. M. JOSHI, J.
DATE : 25th NOVEMBER, 2025.**

P.C. :

1. This application is for suspension of sentence and enlargement of the applicant/appellant on bail in connection with the impugned judgment and order dated 22nd September 2025 in Sessions Case No.874 of 2021, whereby the appellant is sentenced to suffer imprisonment for the period of 8 years for the offence punishable under Section 307 of the Indian Penal Code, 1860.

2. Learned counsel for the appellant submits that the sentence imposed against the appellant is for a fixed period and in view of there being no possibility of the present appeal to be heard shortly, if the appellant is not enlarged on bail, the appeal shall become infructuous.

On merits, it is his submission that the allegation against the present appellant is of causing assault on the leg of the victim with iron road. It is his submission for the said assault, he cannot be held guilty for the

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offence punishable under Section 307 of the IPC. It is his further submission that even if Section 34 of the IPC is made applicable, it is not the case of the prosecution that the appellant by assaulting the injured, facilitated the co-accused to cause assault on his head. He claims that the appellant has no criminal history behind him.

3. Learned APP opposed the application by pointing out the fact that both accused persons caused assault on the injured which indicates their common intention to kill the victim. It is argued that though the appellant claims to be there being no antecedents against him, he is booked for offence under the Narcotic Drugs and Psychotropic Substances Act, 1985. He also argues though the appellant seeks bail on the ground that he has a small son but as per the instructions, the wife and son are residing at their native place.

4. This is a case wherein a fixed term sentence has been imposed on the appellant. There is no likelihood of appeal being taken for for final hearing in short period of time.

5. Prima facie, this Court finds substance in the contention of learned counsel for the appellant that even it was not the case of the prosecution that the assault on the leg was caused by the appellant in order to facilitate the co-accused to cause injury to him on the head. Thus, it can be said that the appellant has reasonable case to make out at the time of hearing of the appeal to indicate that offence may not be said to be proved under Section 307 of the IPC.

6. Insofar as antecedents are concerned, it is pertinent to note that the said offence is said to have been committed in September 2020. The trial is still pending, the appellant pleaded guilty and was sentenced to fine only. The appellant is in jail and hence his family staying at native place, is not unusual circumstance. Having regard to above discussion, this Court finds no reason for rejecting his contention and enlargement on bail. Hence, the following order ;

ORDER

1. The application is allowed.
2. The substantive sentence imposed against the appellant by impugned judgment and order dated 22nd September 2025 passed by Sessions Judge, City Civil Court, Mumbai, in Sessions Case No.874 of 2021 stands suspended till the decision of appeal.
3. The appellant be enlarged on bail on furnishing P.R.Bond of Rs.15,000/- with one solvent surety in the like amount to the satisfaction of the Trial Court.

The interim application stands disposed of in above terms.

7. It is clarified that above observations are made on prima facie consideration of the material on record and the same shall not bind the parties during the final hearing of the appeal.

(R. M. JOSHI, J.)