



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

**930 CRIMINAL APPLICATION NO. 1087 OF 2025
IN APEAL/830/2023**

RUPCHAND BANSI BALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocates for Applicant : Mr. Rajendrraa Deshmukh, Sr. Advocate i/b
Mr. Vishal Chavan and Mr. Ramankumar Gopal Dodiya

APP for Respondent/State : Mr. P.K. Lakhotiya

Advocate for Respondent nos.2 and 3 : Mr. G.D. Kale h/f Mr.Nagargoje
M.V.

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CORAM : NITIN B. SURYAWANSHI AND

VAISHALI PATIL-JADHAV, JJ.

DATED : 7th APRIL, 2026.

ORDER :

. The applicant is convicted by learned Additional Sessions Judge, Ahmednagar in Sessions Case No.207/2018 along with three co-accused under Section 302, 364 read with 34 of the Indian Penal Code, thereby sentencing him to suffer imprisonment for life and further sentencing to pay total fine of Rs.65,000/-.

2. This is first bail application of the applicant on merit. Earlier Criminal Application No.3924/2023 was filed for bail, which according to the learned Advocate for the applicant was for temporary bail and subsequently was withdrawn. In the order dated 15.07.2024, it is specifically observed that the application was not considered on

merits and liberty was granted to file fresh application.

3. Prosecution case, in short, is that on 03.06.2018, at about 4.42 am, F.I.R. was registered at Topkhana Police Station, vide Crime No.280/2018, wherein it is alleged that the applicant along with five other accused persons and four unknown persons assaulted deceased Amol as Amol was having affair with "R". The applicant and other co-accused were close relatives of "R". They did not like affair of "R". On 27.05.2018, in the early morning, Amol received a phone call from "R", who told him that she had come to the bus stand, Ahmednagar and wanted to meet him and also asked to come to the bus stand. Amol reached the bus stand of Ahmednagar, he met with "R", who said Amol to carry her to his room. However, Amol instead of carrying her in his rented room, called her mother on phone and intimated that "R" had come to Ahmednagar and they should take her back. Applicant – original accused no.1 and other accused came to Amol and carried "R" with them. On the same day, in between 12 noon to 12.30 p.m., Amol received phone call of accused no.2, who said that Amol has done good job by sending "R" to them. He then called Amol near Swasthya Hospital. Accordingly, Amol went there. They brought four wheeler Scorpio vehicle. He asked Amol to board in the Scorpio, wherein applicant – accused no.1, accused no.3, accused no.4, accused no.5 and

four to five other persons were sitting. Seeing them, Amol scared but he was forced to board in the vehicle by the applicant on gun point. Amol was then brought to Dhaba of applicant situated at Kolgaon. All the accused persons thereafter mercilessly bet Amol with iron rod and weapon sticks during the period between 12.45 p.m. to 5.30 p.m. till he become unconscious. The applicant used to make Amol regain consciousness by sprinkling water on his body and again used to beat him. Thereafter, he was carried in Scorpio and brought to Delhi Gate, Ahmednagar and was left there. Amol then reached to his rented room, wherein his friend PW-7 was present. He then admitted Amol in Heart-Beat Hospital. PW-7 then called Bhausahab (PW-1), Amol's cousin. Amol disclosed PW-1 about severe beating and that he was admitted in the hospital. Amol's health was deteriorating and he was shifted to JJ Plus Hospital, Aurangabad on 28.05.2018. On 01.06.2018, PW-1 lodged F.I.R. Exhibit-114. Amol succumbed to the injuries on 06.06.2018. On completion of investigation, charge-sheet came to be filed against six accused persons.

4. In support of its case, prosecution has examined sixteen witnesses. Trial Court acquitted accused nos.5 and 6 and convicted accused nos.1 to 4 as aforesaid.

5. Learned Senior Advocate submits that there is no direct evidence and case rests on circumstantial evidence. The Trial Court has erred in relying on the oral dying declaration of the deceased. By referring to the postmortem report, he submits that there were no visible injuries on the vital part i.e. head. As per opinion of doctor cause of death is "injuries are collectively responsible for death". He submits that though the alleged assault is on 27.05.2018, the F.I.R. is belatedly lodged on 03.06.2018 and Amol expired on 06.06.2018. This death is not instantaneous. There is delay in lodging the F.I.R. According to him, CCTV footage relied upon by the Trial Court is not admissible, taking into consideration the admissions given by PW-8 in cross-examination. He further submits that the applicant has undergone approximately 8 years of imprisonment and his appeal is not likely to be heard in near future, therefore, the applicant may be released on bail.

6. Learned APP strenuously opposed the bail application by relying on the order rejecting the application of the applicant on merit. According to him, the Trial Court has properly appreciated the evidence. In the CCTV footage, the applicant is seen beating the deceased with stick on the back of head. By referring to the evidence of doctor, he submitted that there were multiple abrasions on the skull of the deceased. Prosecution has proved homicidal death, and therefore,

the trial Court is justified in convicting the applicant and sentencing him to suffer life imprisonment. Weapons used in the crime and cell phone are recovered from the applicant. The incident has taken place at Dhaba of applicant and CCTV footage is collected from the spot of incident. He therefore submits that this is not a fit case to grant bail.

7. Learned Advocate for the parents of the deceased, adopted the arguments of learned A.P.P. He submitted that the applicant is the main culprit and serious injuries were found on the body of the deceased. The incident has taken place in the house of the applicant, and therefore, the applicant does not deserve bail.

8. Heard learned Senior Advocate for the applicant, learned APP for the State and learned Advocate for the parents of the deceased, at length. Perused the record.

9. In the CCTV footage brought on record by the prosecution, it is seen that the applicant has assaulted the deceased with stick on the back of head. In the CCTV footage, the applicant is seen pouring water on the head of the deceased so as to remove his unconsciousness.

Perusal of the postmortem report shows that the deceased

had suffered contusions on left upper eyelid, right shoulder, left leg and right leg. On internal examination of head, under scalp contusion of size 5 x cm over right fronto-temporal region, under scalp contusion of size 4 x 3 cm over left fronto-temporal region and under scalp multiple patchy hemorrhages over both parietal, occipital region were found. The cause of death given by doctor is that all the injuries excluding therapeutic injuries mentioned in column no.17 and injuries mentioned in column nos.19 to 22 excluding therapeutic injuries with its effect and consequence are collectively sufficient to cause death in ordinary course of nature.

10. Taking the prosecution evidence as it is, we are of the prima facie view that the applicant ought to have been convicted for lesser offence.

11. The applicant was under trial prisoner and has undergone approximately 7 years 10 months imprisonment till date. Taking into consideration the pendency of the Criminal Appeals, the appeal of the applicant is not likely to be heard in near future. In this view of the matter, we are of the opinion that the applicant cannot be detained in custody for indefinite period. In the result, the following order :-

ORDER

(i) The Criminal Application is allowed.

(ii) The applicant be released on bail, on furnishing personal bond of Rs.50,000/- (Rs. Fifty Thousand only) with one or more sureties in the like amount and on payment of entire fine amount.

(iii) The applicant shall attend the concerned Police Station once in a month on every Sunday between 10 am to 11 am, till the disposal of the Criminal Appeal.

(VAISHALI PATIL-JADHAV,J.)

(NITIN B. SURYAWANSHI,J.)

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