

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 3300 OF 2025
IN
CRIMINAL APPEAL No. 636 of 2025**

**JAYESH DAYARAM GANGAWANE
VERSUS
THE STATE OF MAHARASHTRA**

....

Advocate for the applicant : Mr. Rahul R. Karpe a/w
Adv. Saurabh R. Nikat

A.P.P. for Respondent/State : Mr. P.S. Patil

**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

**RESERVING ON : FEBRUARY 05, 2026
PRONOUNCED ON : FEBRUARY 06, 2026**

ORDER:-

1. Heard rival submissions.
2. By this application, the applicant, who is the original accused in Sessions Case No. 29 of 2023, is seeking suspension of his substantive sentence of life imprisonment awarded under the aforesaid Sessions case vide judgment dated 08.07.2025, by the learned Additional Sessions Judge, Nandurbar, during the pendency of this appeal and also his release on bail.
3. As per the prosecution story, sister of this applicant by name Deepali, had married with one Arbaj two years prior to

the incident. After marriage, name of Deepali was changed as Zoya and out of wedlock they were having one four months kid. However, due to inter-religion marriage, the applicant was having grudge against Arbaj and on 03.02.2023 at about 6.30 p.m., when Arbaj had gone to grocery market along with his mother Rukhsana, the applicant committed his murder, by giving blow of knife on left side of the chest.

4. The learned counsel for the applicant submits that the learned Trial Judge did not appreciate the evidence in proper perspective and despite contradictions in the evidence of informant as well as P.W. 2 Rukhsana ignored the same and erroneously convicted the applicant. According to him, the informant was not having any personal knowledge about the incident and whatever he deposed before the Court, was in fact gathered from his mother Rukhsana. The learned counsel for the applicant also pointed out that the evidence of Rukhsana was also ambiguous, as she did not name the applicant and only stated that brother-in-law of Arbaj gave blow of knife and fled from the spot. He further submits that, the entire investigation conducted by the Investigating Officer appears doubtful, since prior to arrest of the accused, the weapon allegedly used in the crime was shown to be recovered. According to him, though the incident took place on 3.2.2023

and the recovery of the weapon shown on the same day in the evening, arrest of the applicant was shown on the next day. Even his clothes were sized on the next day, despite of the fact that he was with the police on the earlier day. As such, he prayed for release of the applicant on bail during the pendency of this appeal.

5. As against this, the learned A.P.P. strongly supported the conviction of applicant/accused and submitted that mother of the deceased was with the deceased at the time of incident and she had every occasion to watch the applicant/accused closely, while stabbing the deceased. She has also described the murder weapon, which was seized from the applicant in presence of panchas. He further pointed out that, even there was CCTV footage about the incident, which the learned Trial Judge had seen personally. As such, the learned A.P.P. submits that when the *prima facie* involvement of the applicant is involved in the crime, he cannot be released on bail.

6. Admittedly, on going through the entire material on record, the learned Trial Judge has convicted the applicant. Even though the evidence of the informant i.e. P.W.1, who is brother of the deceased, is kept aside, as it was based on the information received by his mother, but his mother P.W.2.

Rukhsana is the eye witness, who had seen the applicant stabbing her son from close distance of nearly two feet. This fact has also appreciated by the learned Trial Judge. Therefore, the conviction appears to be based on the evidence of eye witness, whose presence on the spot was but natural. Further, the applicant had also chosen the vital part of the body i.e. left side of the chest of the deceased, for stabbing. In view of the same, and considering the *prima facie* evidence against the applicant/accused, we are not inclined to release him on bail by suspending his substantive sentence of life imprisonment. In the result, the applicant stands rejected.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

YSK/