

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

**CRIMINAL APPLICATION NO. 3949 OF 2025
IN
CRIMINAL APPEAL No. 784 of 2025**

**SAGAR SANTOSH DONGARE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for the applicant : Mr. Ameya N. Sabnis
AGP for Respondent/State : Mr. P. S. Patil
Advocate for Respondent No.2 : Mr. N. D. Kendre

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

**RESERVING ON : MARCH 12, 2026
PRONOUNCING ON : MARCH 13, 2026**

FINAL ORDER (PER SANDIPKUMAR C. MORE, J):-

1. Heard rival submissions.
2. By this application, the applicant, i.e. original accused No.2 in Sessions Case No. 57 of 2018 is seeking suspension of his substantive sentence of life imprisonment and his release on bail.
3. As per the prosecution story, the present applicant along with one Sainath Ingalewad i.e. original accused No.1, assaulted son Ashish of informant Dnyanoba Pundlikrao

Kendre on 19.06.2018 at about 9.00 p.m. In the said incident, the applicant had caught hold of Ashish, whereas accused No.1 Sainath inflicted several blows of knife on the stomach of Ashish. When, P.W.2 Dhiraj Tandale tried to rescue Ashish, Sainath inflicted injury on his hand with the help of knife. Thereafter, both the accused fled from the spot. Ashish sustained severe injuries on his vital part of the body i.e. stomach and succumbed to those injuries when he was taken to Government Hospital, Udgir. According to the informant, his son Ashish had given hand loan of Rs. 25,000/- to Sainath, which Sainath was avoiding to return back.

4. The learned counsel for the applicant submits that, the prosecution has examined two eye witnesses namely P.W.1 Dnyanoba Kendre i.e. father of the deceased and P.W.2 Dhiraj Tandale i.e. neighbour of the deceased. However, so far as involvement of the present applicant in the crime, their evidence is not reliable and convincing. On the contrary, both of them failed to identify the present applicant in test identification parade. He further pointed out that, the learned Trial Judge, despite there being no evidence about the involvement of this applicant, wrongly convicted him.

5. On the contrary, the learned A.P.P. as well as the learned counsel for respondent No.2/ informant strongly opposed the submissions made on behalf of the applicant and submitted that, the learned Trial Judge has rightly appreciated the evidence and found involvement of the present applicant. He pointed out that, son of the informant was brutally murdered by the applicant as well as accused No.1 Sainath. Though the fatal blows were given by Sainath, the present applicant had in fact caught hold of the deceased, enabling Sainath to inflict knife injuries on vital part of body of the deceased. He pointed out that, the present applicant was not released on bail during the trial, but in fact granted only Covid bail. As such, both of them prayed for dismissal of the application.

6. With the help of learned counsel for the rival parties, we have gone through the entire evidence on record along with the impugned judgment by way of Paper Book.

7. Admittedly, the son of respondent No.2/informant, by name Ashish was assaulted and killed brutally. However, the learned counsel for the applicant mainly contended that, there is no reliable evidence on record about the involvement of the applicant. There are two eye witnesses, who have allegedly seen the incident. P.W.1 i.e. respondent No.2 though stated

that applicant caught hold of his son, whereas accused No.1 Sainath inflicted knife blows, but on going through his evidence, it appears that, he was knowing the applicant as well as another accused prior to the incident. However, despite said fact, he could not identify the applicant in test identification parade. As against this, P.W. 2 Dhiraj i.e. neighbour of the deceased was not knowing the applicant and he has deposed that at the time of incident he saw Sainath giving blows of knife on chest and stomach of Ashish and at that time, one another person, to whom he was not knowing, had caught hold of Ashish. Therefore, when he had seen both the accused on the spot of incident, still he could not identify the applicant being the same person who had caught hold of the deceased. Moreover, in the cross-examination he has clearly admitted that, when accused No.1 Sainath, inflicted knife injury to his hand, then he shouted for saving Ashish and thereafter, parents and wife of Ashish came on the spot. Considering, these evidence on record, the presence of the applicant on the spot of incident appears to be doubtful.

8. It is significant to note that, though the learned counsel for respondent No.2 pointed out that the applicant was under-trial prisoner, but from the impugned judgment itself, it is evident that applicant was arrested on 20.06.2018, and

remained in jail up to 22.05.2022. Thereafter, from 22.05.2022 to 06.07.2022, he was out of jail, due to Covid-19 period and further it appears that, he was on bail from 07.07.2022 till his conviction on 12.09.2025. Therefore, considering the fact that he was on bail for substantial period during the trial and that his presence on the spot at the time of incident being doubtful, we are of the opinion that the substantial sentence of imprisonment of the applicant can be suspended during the pendency of this appeal and the applicant deserves to be released on bail.

9. In view of the same, we pass the following order.

O R D E R

- (A) The application is allowed.
- (B) The substantive sentence of imprisonment of life imposed upon the applicant i.e. accused No.2 Sagar Santosh Dongare in Sessions Case No. 57 of 2018 under the judgment and order dated 12.09.2025, passed by the learned Additional Sessions Judge, Udgir, District Latur is hereby suspended during the pendency of this appeal.
- (C) The applicant be released on execution of P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.

- (D) The application is accordingly disposed of.
- (E) It is made clear that observation made in this order shall not have any bearing on merit of the appeal, at the time of final disposal.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

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