



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

**CRIMINAL APPLICATION NO. 623 OF 2026
IN APEAL/115/2026**

NITIN PRABHAKAR SONAWANE
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Sabnis Ameya N.
APP for Respondent : Mr. V.K. Kotecha

...

**WITH
CRIMINAL APPLICATION NO. 447 OF 2026
IN APEAL/77/2026**

1. BHAGWAT SHESHRAO GAIKWAD
2. KIRAN BALAJI GADGIL
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Tidke Aditya Salikram
APP for Respondent : Mr. V.K. Kotecha

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**CORAM : RAJNISH R. VYAS, J.
DATE : 17TH FEBRUARY, 2026**

PER COURT :

1. These are criminal applications for grant of bail and suspension of sentence.
2. In one of the applications, original accused nos. 1 and 3 by name Bhagwat and Kiran, have prayed for suspension of sentence and grant of bail, whereas in other application original accused no. 2 –

Nitin, has preferred an application for grant of bail and suspension of sentence.

3. Since the evidence which is required to be taken into consideration is the same, both the applications are decided together.

4. Heard respective counsels for the applicants and learned APP Mr. Kotecha, for the State.

5. The original accused are convicted in Sessions Case No. 375/2023 by the Sessions Court at Aurangabad, vide judgment dated 08.01.2016, for commission of offences punishable under Sections 307 read with 34 of the Indian Penal Code (hereinafter would be referred to as 'the IPC' for sake of brevity) and directed to suffer rigorous imprisonment for seven years and pay fine of Rs. 5,000/- each, in default of suffer rigorous imprisonment for one month each.

6. So far as commission of under Section 201 read with 34 of the IPC is concerned, the original accused nos. 1 to 3 were directed to suffer rigorous imprisonment for a period of one year each and pay fine of Rs. 1,000/- each. In both the offences, the sentences were ordered to run concurrently. It is this judgment which is challenged by the original accused Bhagwat and Kiran by preferring an appeal which is already admitted.

7. Learned counsels for the applicants submit that if the

testimony of the injured, more particularly P.W. 1, is taken into consideration, it would reveal that at the time of the incident, the accused persons as well as the victim were under the influence of liquor. The incident had taken place on 19.09.2021 at about 01:00 p.m. near Gunjal Building, New Motinagar, Garkheda area, at which time, the accused persons, so also the informant were under the influence of liquor. P.W. 1 in his testimony had stated that at about 10:00 a.m. to 10:30 a.m. when he was present in his house, at that time the injured and Kiran went to the liquor shop of the Kiran and consume the liquor. Thereafter, there was chitchatting between them at about 01:00 p.m. to 01:30 p.m., co-accused by name Bhagwat / accused no. 1 and Nitin / accused no. 2, came there and Nitin informed them that there was no petrol in his vehicle and hence, he be provided with the petrol. Since the vehicle of the injured was parked in front of his house, injured asked him to take petrol from the vehicle. Accused Nitin then took some petrol and further demanded more. The victim then informed to the accused that the petrol would be required for his vehicle also.

8. According the case of prosecution, at that time, accused Bhagwat said as to how much petrol would be sufficient and also asked him whether he shall pour petrol on the person of the injured. At that time, accused Kiran asked to Bhagwat to pour petrol on person and

informed that he will ignite the matchstick. The prosecution further contended that accused Bhagwat then poured petrol on the person of the injured and accused Kiran brought matchstick from the grocery shop and ignited the matchstick and threw it on the person of injured from some distance. Due to which, the victim suffered burn injuries.

9. The incident resulted in the registration of a First Information Report. Consequently, the accused was arrested, a spot panchnama was conducted, and the injured were subjected to medical examination and treatment. After the conclusion of the investigation, a chargesheet was filed.

10. It is the case of the prosecution that the manner in which the incident had taken place would reveal that there was not only the knowledge on the part of the accused persons but also, the intention to commit the murder.

11. Learned counsels for the applicants / accused submitted that all throughout the trial, they were on bail and they did not misuse their liberty and further they co-operated for early completion of trial.

12. Learned counsels for the applicants /accused submitted that after pronouncement of judgment of conviction, accused have surrendered to the custody of Court and are in jail, thereafter.

13. Learned APP submitted that offence is serious. Just because

they were on bail, they did not be released on bail. There was no attempt made by the accused persons to take the victim to the hospital, which aggravates the situation.

14. In this background, I have gone through the testimony of the witnesses. Testimony of P.W. 1 / injured is already discussed. So far as medical injury is concerned, testimony of P.W. 4 / Dr. Nilesh Tayade, would be relevant. He has stated that on 19.09.2021, he had examined the injured and he found following injuries :

“Thermal burns over head, face, neck region, bilateral shoulders, upper chest and back region with left upper limb. The size was approximately 25% superficial to deep burns. The injury was fresh occurred within 16 to 24 hours. The injury was grievous in nature.”

15. The nature of injuries would reveal that the injuries sustained by the victim were grievous in nature. The question in this appeal is whether the said injuries, would be sufficient to attract conviction under Section 307 of the IPC. It is well-settled principle of law that injury is not *sine qua non* for convicting an accused for commission of offence under Section 307 of the IPC. What is required to be taken into consideration is the act on the part of the accused persons which would reveal whether the act was committed with the necessary

intent or knowledge.

16. P.W. 1 had stated that on the date of the incident, they were under the influence of liquor and chitchatting when the other accused came there and thereafter, one of the accused demanded the petrol which was provided by the injured. On this count, under the influence of liquor, the incident had taken place. No doubt, the victim had suffered grievous injuries but the question is whether act would prove intention or knowledge to attract the conviction under Section 307 of the IPC. The testimony of P.W. 1 and P.W. 4 will have to be looked into in the light of law laid down by the Hon'ble Apex Court in various cases dealing with the scope of Section 307 of the IPC.

17. Considering the fact that the sentence imposed upon the accused persons is a fixed term of seven years, and all the applicants are below 40 years of age, they can be asked to undergo the same, if appeal is decided otherwise. It is not disputed by the learned prosecutor that all throughout trial, the accused persons were on bail. There is no complaint that the accused have misused their liberty when they were on bail. The accused no. 2 has already deposited fine amount, but accused nos. 1 to 3 and have not deposited.

18. Learned counsel for the applicants / accused nos. 1 and 3 submits that he will deposit the fine amount within a period of seven

working days from today.

19. Considering the fact that arguable points are involved in the appeal and sentence imposed is of fixed term, so also the fact that the testimony of P.W. 1 and 4 will have to be tested on the touchstone of the grounds raised in the memo of appeal, I am inclined to allow the criminal applications. Accordingly, following order is passed :

ORDER

- i. The applications preferred by accused nos. 1 to 3 for grant of bail and suspension of sentence, are hereby allowed.
- ii. The sentence imposed by Additional Sessions Judge, Aurangabad, in Sessions Case No. 375/2023, convicting the accused / applicants for commission of offences punishable under Sections 307, 201 read with 34 of the IPC, is suspended till decision on appeal.
- iii. The applicants be released on bail on such terms and conditions as were imposed by the trial Court.
- iv. Criminal Applications are disposed of.

(**RAJNISH R. VYAS, J.)**