HARISH VITHAL CHAUDHARI
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRI-INTERIM APPLICATION NO. 437 OF 2026
IN
CR. APPEAL NO. 190 OF 2026

Ashok Ramchandra Panchal ...Applicant

Versus

The State Of Maharashtra ...Respondent

Mr. Bjagyashri R. Mangale appointed through Legal Aid for the Applicant.
Mr. Kumar V. Saste, Addl. APP for the Respondent-State.

Coram : **Sharmila U. Deshmukh & Neeraj P. Dhote, JJ.**

Date : **October 09, 2026.**

P. C. :

1. This is an application for suspension of the sentence imposed by the learned Additional Sessions Judge, Wai in Sessions Case No. 95 of 2023 by Judgment and Order dated 10th October 2025 thereby convicting and sentencing the Applicant. The operative Order of the said Judgment is reproduced below:

> *1] Accused **Ashok Ramchandra Panchal** is hereby convicted for the offence punishable under Section **302 of Indian Penal Code**, in view of provision of Section 235(2) of Criminal Procedure Code and he is sentenced to suffer **Life Imprisonment** and to pay a fine of **Rs.5,000/- (Rupees Five Thousand Only)** in default to suffer **Simple Imprisonment** for **Five Months**.*

2] ….. ….. ….. ….. ….. ….. ….. ….. …..”

3] ….. ….. ….. ….. ….. ….. ….. ….. …..”

4] ….. ….. ….. ….. ….. ….. ….. ….. …..”

2. The prosecution case in brief, as can be seen from the impugned Judgment, is as under. The relevant paragraphs from the same are reproduced below.

2] In brief, case of the prosecution can be depicted as under-

“A] Accused Ashok and his wife Mangal have two sons by name, Ninad and Rushiketh (PW1). There was discord between accused and his wife-Mangal. Accused was addicted to consuming liquor and to play "Matka". He used to pick-up quarrel with his wife on trivial counts and used to beat her and his sons.

*B] PW1- Rushikesh had purchased flat in building No.F-03, Flat No.403, situated in "Urbangram Society", **Dhangarwadi, Tq. Khandala**, District-Satara. PW1- Rushikesh is in service in "Axa Company". His brother- Ninad with his wife was residing at **Hadapsar**. PW1- Rushikesh and his wife were residing at **Kothrud**. PW1- Rushikesh brought his father- Accused Ashok and his mother Smt.Mangal together to reside in his flat at Dhangarwadi, Tq- Khandala, District Satara. But accused did not like such fact. PW1- Rushikesh used to provide monthly domestic material to them.*

*C] When mother of PW1- Rushikesh Smt. Mangal was residing with her husband- accused Ashok in flat, **she made complaint to her son PW1- Rushikesh that accused used to abuse her and beat her**. Therefore, PW1- Rushikesh had given good understanding to the accused.*

D] On 13.01.2021, PW1- Rushikesh went to his flat at Dhangarwadi, for celebrating "Bhogi" festival. At that relevant time,

again ***his mother informed him that his father had threatened her -"***तुला चार दिवसात बघून घेतो***.". Again, good understanding was given to the accused by PW1- Rushikesh.***

E] On 19.01.2021 at about ***12:55 P.M****., accused phoned PW1- Rushikesh on his mobile and informed him that- "*तुझ्या आईला तवा डोक्यात घालून ठार मारले आहे**,** पोलीस आणि अब्युलन्स घेऊन ये***.". PW1-Rushikesh asked accused to disclose real fact. In reply, accused informed him that- "*तुम्ही सर्वजण प्लॅन करून इथे मला आणून मला त्रास देता काय मी तिला ठार मारून टाकले आहे**,** तु पोलीसांना घेवून ये*.". Thereafter, PW1- Rushikesh informed such fact to his father-in-law. Then, he (PW1) with his father-in-law came to Dhangarwadi, at about* ***2:45 p.m****.*

*F] When he (PW1) reached at his flat at Dhangarwadi, he saw that dead body of his mother was lying in kitchen room. He also noticed that his mother had sustained serious head injury. Blood was lying here and there in kitchen room. Iron Frying Pan and its (separated) wooden handle were lying there, which were stained with blood. Accused was found sitting in the chair. PW1- Rushikesh asked accused- "what you had done?" ("*हे तुम्ही काय केले*."). Accused replied that- "*हाच तवा तिच्या डोक्यात घालून तिला ठार मारले आहे*.". By that time, police had reached there.*

*3] In consequence of above narrated incident, he (PW1) lodged report (****Exh.30****) to the Police Station, Shirwal on the same day of incident. On the basis of that report, crime was registered against accused vide* ***Crime No.15/2021*** *for the offence punishable under Section 302 of Indian Penal Code. Thereafter, investigation was started."*

3. It is submitted by the learned counsel for the Applicant/Appellant that, the case is based on circumstantial evidence. The learned trial Court has convicted the Applicant/Appellant primarily on the basis of

the extra judicial confessional made by the Applicant/Appellant to Witness No. 1. The Applicant/Appellant is 72 years of age, and the Appeal is of 2026 and is not likely to be heard in the near future. She submitted that the application be allowed.

4. The application is opposed by the learned Additional P.P. He submits that, the case is based on circumstantial evidence. He further submits that the circumstances against the Applicant/Appellant are that of a extra-judicial confessional and Section 106 of the Evidence Act. He, therefore, submits that the application be rejected.

5. Admittedly, the case is based on circumstantial evidence. The only circumstance upon which the prosecution is heavily relying is that of the extra-judicial confession to Witness No. 1. It is a settled principle of law that, evidence in the nature of an extra-judicial confession is a weak piece of evidence. The Appeal is of 2026 and is not likely to be heard in the near future. The Applicant/Appellant is 72 years of age. In this view of the matter we are inclined to suspend the sentence . Thus, we proceed to pass the following order:

ORDER

i. Application is allowed.

ii. The substantive sentence of imprisonment imposed by by the learned Additional Sessions Judge, Wai in Sessions Case No. 95 of 2023 by Judgment and Order

dated 10th October 2025 convicting the Applicant, is suspended during the pendency of the Appeal.

iii. The Applicant/Appellant is directed to be released on bail on furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety in the like amount.

iv. The Applicant/Appellant shall co-operate with this Court for early hearing of the Appeal.

v. Bail before the Trial Court.

6. The Application stands disposed of accordingly.

[Neeraj P. Dhote, J.] **[Sharmila U. Deshmukh, J.]**