

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.876 OF 2024
IN
CRIMINAL APPEAL NO.369 OF 2016

Shankar Suresh Bhingardive	]	Applicant
versus		
The State of Maharashtra	]	Respondent

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Mr. Anush Shetty a/w Mr. Rahul P. Sagar i/b Dr. Yug Mohit Chaudhary,
for Applicant.

Mr. A.A. Naik, A.G.P, for Respondent – State.

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CORAM : R.G. AVACHAT AND
AJIT B. KADETHANKAR, JJ.

DATE : 20th JANUARY, 2026.

ORAL ORDER: [PER R.G. AVACHAT, J.]:

1. Heard.
2. This is an application under section 389 of the Code of Criminal Procedure, 1973 (for short “Cr. P.C”) for suspension of substantive

sentence imposed upon the applicant by the learned Sessions Judge, Satara in Session Case No.87 of 2015 vide his judgment and order dated 16th March, 2016.

3. The applicant has been convicted for the offences punishable under sections 302 and 307 of the Indian Penal Code, 1860 (for short "I.P.C") and, therefore, sentenced to imprisonment for life and rigorous imprisonment for five years respectively.

4. According to the learned Counsel for the applicant, the case would fall within Exception No.1 to section 302 of the I.P.C. He adverted our attention to the cross-examination of P.W.6 – Madhavi Bhandare to submit that the incident was preceded by a quarrel between the victim/deceased and the applicant. It was the deceased who assaulted the applicant with a rolling pin. There was also history of quarrel between the two. The other two who were at the crime scene went to rescue the victim and in the melee, the applicant assaulted them as well. According to the learned Counsel for the applicant, the applicant is behind the bars for little over ten years and nine months. It will take time for the appeal to be heard on its own merits. He, therefore, urged for grant of the application.

5. Learned A.P.P would, on the other hand, submit that it is the case of one death and a bid on the life of two others. The other two injured were innocent persons. The victim was a lady. There is nothing to indicate that she behaved in such a manner so as to give the applicant a grave and sudden provocation so as to bring the case within Exception No.1. According to him, it was the applicant who was already armed with a knife and went over to the place of the deceased. The deceased was unarmed lady. No injury was noticed on the person of the applicant. According to the learned A.P.P, it is thus a case of the clear conviction under section 302, I.P.C. According to him, the other two who had been to the crime scene tried to rescue the victim had also not been spared by the applicant. In this circumstance, the applicant does not deserve the relief. He would further submit that he is ready to work out the appeal on merits. He, therefore, urged for rejection of the application.

6. We have gone through the evidence of P.W.6 – Madhavi Bhandare. In the cross-examination, she has given the following admission - “ there was a scuffle between the deceased and the applicant. At that time, the deceased beat the accused with a rolling pin”.

It is true that the admission could not be read in isolation. The entire evidence of the said witness needs to be appreciated in right

perspective. The fact that the two other innocent persons were assaulted by the applicant is also in the mind of this Court. Those two are now out of danger. The incident took place about eleven years before. The applicant is behind the bars little over ten years and nine months. The applicant is fifty three plus. He has a wife and two grown up children.

7. In view of the fact that the applicant has been behind the bars for close to eleven years and there is no likelihood of the appeal being heard finally in the near future, we are inclined to grant the application in terms of the following order;

: ORDER :

(a) The substantive sentence imposed on the applicant by the learned Sessions Judge, Satara vide his judgment and order dated 16th March, 2016 in Sessions Case No.87 of 2015 shall remain suspended till the final disposal of Criminal Appeal No.369 of 2016;

(b) The applicant be released on furnishing a P.R bond in the sum of Rs.15,000/- (Fifteen Thousand only) with one or more solvent sureties in the like amount.

(c) Bail before the Trial Court.

8. The application stands disposed of.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT J.]