

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2726 OF 2025
IN
CRIMINAL APPEAL NO.440 OF 2018

Siddhaling Pandit Kamane ...Applicant
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
CRIMINAL APPEAL NO.440 OF 2018

Siddhaling Pandit Kamane ...Appellant
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
CRIMINAL APPEAL NO.468 OF 2018

Pandit Shivling Kamane & Anr. ...Appellants
Versus
The State of Maharashtra & Ors. ...Respondents

WITH
CRIMINAL APPEAL NO.472 OF 2018

Shrishail Madolappa Birajdar ...Appellant
Versus
The State of Maharashtra & Ors. ...Respondents

Mr. Veerdhawal Deshmukh (Through Video Conferencing), for the Appellant in Criminal Appeal/440/2018.
Adv. Mervin Bardeskar i/b Ritesh M. Thobde, for the Appellants in Criminal Appeal/468/2018 & Criminal Appeal/472/2018.
Mr. P. P. Deokar, APP, for the Respondent-State.
Mr. Kedar Nhavkar (Through Video Conferencing), for Respondent Nos.2 & 3.

CORAM: MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.
DATED: 06 MARCH 2026

PC:-

1. The Interim Application is taken out seeking the relief that substantive sentence imposed upon the Applicant vide Judgment and Order dated 8th March 2018 in Sessions Case No.259 of 2015 be suspended and the Applicant be released on bail, pending the hearing and final disposal of the Criminal Appeal.

2. It is the submission of Mr. Deshmukh, learned Counsel appearing for the Applicant that the Applicant was arrested on 29th July 2015. He submitted that the Applicant is behind bars for last about 11 years. He pointed out the evidence of PW-1 as well PW-2 and particularly the incident which took place on 28th July 2015 in which the wife and mother-in-law of the Applicant were killed. He submitted that although there were previous incidents, insofar as the incident which has taken place on 28th July 2015 is concerned, the same has taken place on the spur of the moment. He submitted that, in any case the Applicant is behind bars for last about 11 years and, therefore, relief be granted.

3. On the other hand, Mr. Deokar, learned APP for the Respondent-State of Maharashtra and Mr. Nhavkar, learned Counsel for Respondent Nos.2 and 3, submitted that the offence is very serious. The Applicant has killed his wife and mother-in-law. Both of them submitted that the evidence on record clearly shows that the Applicant demanded a huge amount of Rs.20,00,000/- and also threatened his wife, mother-in-law and two other sisters that he would kill them and, therefore, the incident has not occurred on the spur of the moment but it is a pre-planned murder. Both of them, therefore, submitted that the Application be dismissed. Both of them further submitted that if the Applicant is released on bail, then there is an apprehension that he will try to harm other two sisters of the deceased-wife.

4. Perusal of the record shows that the marriage of the Applicant and Sangita took place on 30th May 2015. Said Sangita is the sister of PW-1 and PW-2. Perusal of the record also shows that, as per the prosecution case, the Applicant was demanding money and harassing his wife, mother-in-law and sisters-in-law.

5. The evidence of PW-1 and PW-2 shows that on earlier occasions also the Applicant had threatened his wife, mother-in-law and sisters-in-law. However, the evidence of PW-1 and PW-2 as regards the incident dated 28th July 2015 is material for deciding the present Interim Application. The relevant part of the evidence of PW-1-Shruti Vitthal Shevgar i.e. sister-in-law of the Applicant in Paragraph No.8 is material, which reads as under:

“8 On 28/7/2015 myself and my sister Sarika went to college at about 8.00 am. We returned from college at about 5.30 pm at that time my sister Sangita and mother were present in the house. At that time my self and my sister Sarika asked my mother whether they received any phone call from our brother-in-law in respect of signing on divorce paper. Mother informed us that, no such phone call has received as there was no phone call. On that night at about 9.15 pm my brother-in-law Sidhaling came to our house by wearing underwear and bunion at that time my self my sister, Sangita, Sarika and mother were also present. Brother in law Sidhaling started arguing with Sangita as to why she is not signing on divorce paper at that time my mother tried to convince my brother-in-law. At that time my brother-in-law said that, you have tied a sick and ill girl with me, therefore, he will finish our family, then Sangita said that she is ready to sign divorce paper. When Sangita was saying my brother-in-law picked up a wooden log/pestle (मुसळ) from our house and hit on the head of Sangita. Sangita cried loudly and fall down. At that time my brother-in-law continuously hitting Sangita. When my mother was taking Sangita out of the house accused Sidhaling hit my mother by the same wooden log/pestle (मुसळ) on the head of my mother. Then my self and my sister Sarika intervened for rescuing my mother and sister at that time

*accused Sidhaling gave a blow of same wooden log on the head of my sister Sarika. Therefore she cried loudly and fell down. Till that time my mother had taken Sangita out of our house. Accused Sidhaling rushed towards them and I followed him. At that time my mother and sister Sangita were lying in injured condition near auto rickshaw. Then Sidhaling taken the stone and hit it on the head of Sangita. When I went to rescue accused Sidhaling pushed me forcefully and I fell down. Then accused Sidhaling picked up the same stone and hit on the head of my mother. I became frightened and rushed in side the house. Brother-in-law Sidhaling followed me. Accused Sidhaling gave a blow of same wooden log (मुसळ) my head due to which I sustained bleeding injury and I fell down. The neighbouring people witness the said entire incident. Then somebody from our neighbourhood took us to Civil Hospital. Then I came to know my mother and sister Sangita are dead. On 29/7/2015 police came to Civil Hospital, I was admitted in Trauma ICU and recorded my statement. On the basis of said statement crime was registered. The said statement now shown to me, it is the same. It bears my signature. Contents are true and correct. It is marked with **Exh. 41.**"*

(Emphasis added)

6. Thus, *prima facie*, the above Paragraph shows that on 28th July 2015 the Applicant went to the house of his wife and mother-in-law and started arguing with his wife - Sangita and questioned her as to why she was not signing on the divorce papers and also told the relatives of his wife that he was got married with a sick and ill girl and, therefore, he would finish the entire family and at that time he picked up a wooden log/pestle from the house and

also used a stone and assaulted his wife, mother-in-law and two sisters-in-law. In the incident in question, the Applicant's wife and mother-in-law died and two sisters were seriously injured. In any case, what is important to note is that even as per the prosecution case the Applicant has not gone to the house of the deceased by taking any weapon. From the house of the deceased he brought a wooden log/pestle and assaulted the deceased-wife.

7. Thus, there is substance in the contention raised by learned Counsel for the Applicant that insofar as the incident of murder is concerned, the same has taken place on the spur of the moment.

8. The Supreme Court in the decision of *Saudan Singh v. State of U.P.*¹, with respect to the Criminal Appeals pending in the Allahabad High Court, has held that for finding of a holistic solution to the problem of hearing of appeal and grant of bail where a person has served out more than 10 years of sentence, bail be granted unless there are any extenuating circumstances against him. Although the said observations are applicable to the Criminal Appeals pending in the Allahabad High Court, however, the same

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also applies in the facts and circumstances. This Appeal which is of the year 2018 cannot be taken up, in view of the pendency of many matters.

9. Apart from that the Supreme Court in the decision of *Shivani Tyagi v. State of U.P.*², has set out parameters for considering the relief of bail. The relevant Paragraph is Paragraph No.9, which reads as under:

“9. We have already referred to the mandate under Section 389 Cr.P.C. that the order passed invoking the said provision should reflect the reason for coming to the conclusion that the convicts are entitled to get suspended their sentence and consequential release on bail. In the decision in State of Haryana v. Hasmat, this Court held that in an appeal against conviction involving serious offence like murder punishable under Section 302, IPC the prayer for suspension of sentence and grant of bail should be considered with reference to the relevant factors mentioned thereunder, though not exhaustively. On its perusal, we are of the opinion that factors like nature of the offence held to have committed, the manner of their commission, the gravity of the offence, and also the desirability of releasing the convict on bail are to be considered objectively and such consideration should reflect in the consequential order passed under Section 389, Cr.P.C. It is also relevant to state that the mere factum of sufferance of incarceration for a particular period, in a case where life imprisonment is imposed, cannot be a reason for invocation of power under Section 389 Cr.P.C. without referring to the relevant factors. We say so because there cannot be any

2 2024 SCC OnLine SC 842

doubt with respect to the position that disposal of appeals against conviction, (especially in cases where life imprisonment is imposed for serious offences), within a short span of time may not be possible in view of the number of pending cases. In such circumstances if it is said that disregarding the other relevant factors and parameters for the exercise of power under Section 389, Cr.P.C., likelihood of delay and incarceration for a particular period can be taken as a ground for suspension of sentence and to enlarge a convict on bail, then, in almost every such case, favourable invocation of said power would become inevitable. That certainly cannot be the legislative intention as can be seen from the phraseology in Section 389 Cr.P.C. Such an interpretation would also go against public interest and social security. In such cases giving preference over appeals where sentence is suspended, in the matter of hearing or adopting such other methods making an early hearing possible could be resorted. We shall not be understood to have held that irrespective of inordinate delay in consideration of appeal and long incarceration undergone the power under the said provision cannot be invoked. In short, we are of the view that each case has to be examined on its own merits and based on the parameters, to find out whether the sentence imposed on the appellant(s) concerned should be suspended during the pendency of the appeal and the appellant(s) should be released on bail.”

Thus, what the Supreme Court has held that factors like nature of the offence held to have committed, the manner of their commission, the gravity of the offence, and also the desirability of releasing the convict on bail are to be considered objectively and such consideration should reflect in the consequential order passed under Section 389 of the *Code of Criminal Procedure, 1973*.

10. In the present case, the Applicant has been convicted for the offences punishable under Sections 302, 307, 498A, 506 read with 34 of the *Indian Penal Code, 1860*. The Applicant has already completed about 11 years of imprisonment. As noted herein above, *prima facie*, the offence under Section 302 of IPC has taken place on a spur of moment. Thus, case is made out for grant of relief. However, as there is an apprehension expressed that the Applicant will try to harm the sisters of the deceased-wife, stringent conditions are required to be imposed on the Applicant.

11. Accordingly, the Applicant is entitled to be released on bail during the pendency of the Appeal. Hence, the following Order:

ORDER

- (a) The sentence of imprisonment imposed vide Judgment and Order dated 8th March 2018 passed by the learned Additional Sessions Judge, Solapur, in Sessions Case No.259 of 2015 is suspended during pendency of Criminal Appeal No.440 of 2018, preferred by the Applicant-Siddhaling Pandit Kamane and the Applicant-Siddhaling Pandit Kamane shall be released on bail in Sessions Case No.259 of 2015

arising out of CR No.245 of 2015 registered on 29th July 2015 at Vijapur Naka Police Station, District-Solapur, on his furnishing PR bond of Rs.50,000/- with one or two solvent local sureties in the like amount.

- (b) After release from Jail, during the pendency of the Appeal, the Applicant shall attend Akkalkot North Police Station, District-Solapur, once in a week i.e. on every Monday between 10:00 am and 12:00 noon, till disposal of the Appeal.
- (c) The Applicant shall not enter Solapur City and Panvel City, till disposal of the Appeal.
- (d) The Applicant to furnish his residential address and contact details to the Police Inspector of Akkalkot North Police Station, District - Solapur, and shall keep the same updated, in case of any change thereto.
- (e) The Applicant shall not contact the Complainant or his family members or any other witnesses in any manner.

12. Accordingly, the Interim Application is disposed of in above terms.

[Pravin S. Patil, J.]

[Madhav J. Jamdar, J.]