

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

CRI. INTERIM APPLICATION NO. 3729 OF 2025
IN
CR. APPEAL NO. 237 OF 2018

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Lavu Vijay Naik

... Applicant

Versus

The State of Maharashtra

... Respondent

.....

Mr. Anush Shetty (through VC) a/w Mr. Rahul P. Sagar i/b Mr. Yug Mohit Chaudhary for the Applicant.

Mr. Shrikant Yadav, APP for the Respondent – State.

Mr. Shridhar H. Kumbhar, Liaising Officer, Jail present

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**CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.**

DATE : 9th MARCH, 2026.

P. C. :

1. Heard Mr. Shetty, learned counsel appearing for the Applicant and Mr. Yadav, learned APP for the State.

2. By the present Interim Application, the Applicant is seeking suspension of sentence during the pendency of the Criminal Appeal and prays for his release on bail.

3. By judgment and order dated 15th December 2016 passed by the learned Additional Sessions Judge, Sindhudurg at Oros passed in Sessions Case No. 8 of 2013, the Applicant was convicted for the offence punishable under Section 302 of the Indian Penal Code and also he was sentenced to suffer life imprisonment and to pay fine of Rs. 5,000/- in default to suffer R.I. for six months.

4. It is the submission of the learned counsel appearing for the Applicant that the Applicant has completed about 11 years and 2 months of the imprisonment and still his Appeal is not taken up for hearing and, therefore, due to long incarceration, the Applicant be granted bail.

5. On the other hand, Mr. Yadav, learned APP strongly opposes the Application. He submits that earlier bail application came to be rejected by this Court by order dated 12th July 2019 passed in Criminal Application No. 414 of 2019.

6. The prosecution case is set out in paragraph No.2 of order dated 15th December 2016, which reads as under :-

“2. It is alleged that the accused had love affair with deceased No. 2-late Shradha Sakharam Parab since 2006 and

they Some month's before the incident, had decided to marry. deceased Shradha started avoiding the accused. The accused was, therefore, aggrieved with deceased No. 2-Shradha. It is alleged he had been at the house of deceased No. 1-Subhadra Bachhaji Rane, the grandmother of late Shradha during the period from onwards 19.30 hours of 19.06.2010 till 20.06.2010 upto 8.45 hours. Exchange of hot words took place in between them and the matter was intervened by deceased Subhadra. In a heat of anger, accused picked up iron pipe and gave forcible blows on head of both deceased and met them with death. According to prosecution case, said incident happened in Grampanchayat House No. 1412 at Redi Mhartalewadi, Tal. Vengurla, Dist. Sindhudurg i. e. house owned by deceased Subhadra.”

7. The prosecution case shows that as there was love affair between the Applicant and deceased Shraddha and as said Shraddha started avoiding accused, some altercation took place between the Applicant and said Shraddha and her grand-mother Subhadra. Even as per the prosecution case, in the hit of anger, the Applicant picked up an iron pipe and gave blows on the head of the the deceased and in the incident in question, both of them were killed.

8. The Hon’ble Supreme Court in case of **Shivani Tyagi Vs. State of Uttar Pradesh**¹ has held that while considering the Application under Section 389 of the Cr.P.C. various factors like the nature of offence held to have been committed, the manner of its commission, the gravity of

1 (2024) SCC OnLine SC 842

offence, and also the desirability of releasing the convict on bail are to be considered objectively and such consideration should reflect in the order passed under Section 389, of the Code of Criminal Procedure, 1973.

9. Even as per the prosecution case, the incident in question has taken place in a spur of moment as the exchange of hot words took place between the Applicant and the deceased from 19th June 2010 19.30 hrs. till 20th June 2010 upto 8.45 hours and thereafter in a hit of anger, the Applicant committed the crime.

10. It is relevant to note that Applicant has completed about 13 years and 2 months of actual imprisonment and considering the pendency of old Appeals in this Court, it is not possible to take up the Criminal Appeal for final hearing due to pendency of very old matters.

11. Accordingly, in the facts and circumstances, the case is made out for suspension of sentence and release of the Applicant on bail during the pendency of Appeal. Hence, we pass following order :

ORDER

[a] The sentence imposed on Applicant by learned Additional Sessions Judge, Sindhudurg at Oros vide judgment and order dated 15th December

2016 passed in Sessions Case No.8 of 2013 is suspended till the final disposal of Criminal Appeal No. 237 of 2018.

[b] The Applicant be released on furnishing PR bond in the sum of Rs.25,000/- with one or more solvent sureties of like amount in connection with Sessions Case No. 237 of 2018.

[c] Till the disposal of Criminal Appeal, the Applicant shall report to the Trial Court once a month on every first Monday of each month.

[d] The Applicant shall attend this Court when the Appeal is listed for final hearing.

12. Interim application stands disposed of.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]