

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

CRIMINAL APPELLATE JURISDICTION

CRI-INTERIM APPLICATION NO. 285 OF 2026
IN
CRIMINAL APPEAL NO. 1129 OF 2022

Mahesh Maruti Pawar

...Applicant

Versus

The State Of Maharashtra

...Respondent

.....

Adv. Sachinkumar Rajepandhare (through V.C.) a/w Adv. Abhay Jadhavar and Adv. Rutik A. Kashid, for Applicant.

Ms. Priyanka S. Rane, learned APP for the Respondent-State.

.....

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

DATE : 4th MAY, 2026.

PC. :

1. Heard Mr. Rajepandhare, learned counsel appearing for the Applicant and Ms. Priyanka S. Rane, learned APP for the Respondent-State.

2. By this interim application, the Applicant, who is accused No.1 is seeking relief of suspension of sentence imposed upon the Applicant under Section 302, 307, 506 and 201 of the Indian Penal Code by learned Additional Sessions Judge, Pandharpur vide Judgment and

Order dated 26th September 2022 passed in Sessions Case No.34 of 2017 and seeking relief of release on bail.

3. At the outset, Mr. Rajepandhare, learned counsel appearing for the Applicant, states that an earlier interim bail application was not pressed and was accordingly allowed to be withdrawn by order dated 9th February 2023 passed in Interim Application No. 3819 of 2022. He further submits that thereafter another Interim Application No. 1222 of 2024 was also not pressed, and instead, relief for expeditious hearing of the Criminal Appeal was sought. Accordingly, it was directed that the said Criminal Appeal be listed for final hearing on 7th July 2025. He states that, till date, the Criminal Appeal could not be heard, and therefore, pursuant to the liberty granted by this Court by order dated 9th April 2026, the present Interim Application has been filed seeking suspension of sentence and grant of bail during the pendency of the said appeal.

4. The learned counsel appearing for the Applicant, submits that although *prima facie* there is evidence against the Applicant indicating his involvement in the crime, the incident took place on the spur of the moment and there was no premeditation in committing the said crime. He further submits that there are no criminal antecedents against the Applicant. He also submits that the Applicant has undergone 9 years, 1

month and 6 days of actual imprisonment and, with remission, 10 years, 8 months and 6 days of imprisonment. He, therefore, prays that the relief sought in the Interim Application be granted.

5. Mr. Rajepandhare learned counsel appearing for the Applicant, on instructions, states that as the Applicant and the Complainant are adjoining neighbors at Tal. Sangola, Dist. Solapur, the Applicant will not enter into Village Watambare as well as Tal. Sangola, Dist. Solapur, till the final hearing of the Criminal Appeal. He further states that the Applicant will stay near the Marathi School, at Lingnur, Taluka Miraj, District Sangli, after his release and will report the Miraj Rural Police Station, Tal. Miraj, Dist. Sangli.

6. On the other hand, Ms. Rane, learned APP for the Respondent–State, submits that there are eye-witnesses to the incident, namely PW-2 – Sharad Shankar Pawar and PW-3 – Rukmini Ghorpade. She submits that the evidence of the said eye-witnesses clearly demonstrates that the Applicant brutally assaulted the deceased as well as PW-2. She further submits that, in fact, PW-2 was saved due to timely medical aid. She further submits that there is recovery at the instance of the Applicant, including blood stained clothes. She also relied on the evidence of PW-6 – Dr. Piyush Pradip Patil and PW-11 – Dr. Ganesh Satpute. She, therefore, prays that the Interim Application be dismissed.

7. Before considering the rival submissions, it is necessary to set out the observations of the Hon'ble Supreme Court in the case of ***Shivani Tyagi Versus State of U. P. and Another***¹ In the said case, the Hon'ble Supreme Court has held that in an appeal against conviction involving serious offence like Murder punishable under Section 302 of IPC, the prayer for suspension of sentence and grant of bail should be considered with reference to the relevant 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 and such consideration should reflect in the consequential order passed under Section 389, Cr.PC.

8. In view of the parameters laid down by the Hon'ble Supreme Court in the case of ***Shivani Tyagi*** (supra), it is relevant to note that PW-2, in his examination-in-chief in paragraph No. 1 (at page No. 70 of the paper book), has stated that "his agricultural land and the land of the accused are adjacent, and quarrels used to take place between them on account of damage to the common bandhs of land."

9. PW-3 – Rukmini Dashrath Ghorpade, who is an eye-witness, has described the actual incident in paragraph Nos. 3 to 5 (at page No. 84 of the paper book), as follows:

1 2024 SCC OnLine SC 842

“3. The incident in this case took place near about two years 09.30 a.m. I am back, near the festive occasion of Padawa, at about 09.30 a.m. I am not at all educated. On the date of the incident, I had gone to the house of Vishnu Pawar, by the road passing through the house of the deceased Vimal Pawar. From the house of Vishnu Pawar, I was coming back towards my house, walking.

4. I came near the house of the deceased and of the accused. I heard clamour i.e. voice of persons there, hence I went towards their houses. There, all the accused, Mahesh, Sharad and his mother were present there. Mahesh had climbed upon a 10 'Chillari' tree and was cutting down its branch by an axe. Sharad and his mother were saying Mahesh not to cut the branch. On that, Mahesh proclaimed from the tree itself that, he would not cut the branch, but would cut them only.

5. Saying this, Mahesh came down the tree. He was having that axe in his hand. Mahesh dealt a blow of that axe on the right side of forehead of Sharad. Hence, Vimal, mother of Sharad intervened to rescue Sharad. Mahesh dealt three blows with that axe on Vimal. Mahesh dealt blows of that Axe on the left forearm, left side of shoulder and near left ear of Vimal. That time, Maruti and his wife Kusum also pelted stones on Vimal. Hence, Vimal fall down. After some time, the accused went away. After the accused left, I lifted head and neck of Vimal and gave my hand to her. I came to know that, Vimal had died on the spot. Sharad also was laying unconscious, being injured on spot itself.”

Thus, above paragraphs *prima facie* show that the incident in question has taken place on the spur of the moment. On the date of the incident, the applicant had climbed upon a ‘Chillari’ tree and was cutting down its branch by an axe. At that time, the deceased and his mother were objecting to the same and told the Applicant not to cut the branch. Thereafter, the quarrel started and the Applicant assaulted the

deceased with axe as also on PW-2 – Sharad Shankar Pawar.

10. Thus *prima facie*, there is a substance in the contention raised by the learned counsel appearing for the Applicant that the incident in question has taken place on the spur of the moment. The Applicant has undergone 9 years, 1 month, and 6 days of actual imprisonment, and, with remission, 10 years, 8 months, and 6 days of imprisonment.

11. In view of the above facts and circumstances, the case is made out for grant of suspension of sentence and grant of bail.

12. In the light of above, we pass the following order :

::ORDER::

- [a] The sentence imposed on Applicant by learned Additional Sessions Judge, Pandharpur vide Judgment and Order dated 26th September 2022 passed in Sessions Case No.34 of 2017 is suspended till the final disposal of Criminal Appeal No.1129 of 2022.
- [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.34 of 2017.
- [c] The Applicant shall not enter Tal. Sangola, Dist. Solapur till final hearing of the Criminal Appeal No.1129 of 2022.
- [d] The Applicant shall report to the Miraj Rural Police Station, Tal. Miraj, Dist. Sangli, on 1st and 3rd Monday of each month.

[e] Bail be submitted before the trial Court.

[f] The Applicant shall attend this Court when appeal is listed for final hearing.

13. Interim application is disposed of in above terms.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]