IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

APPEAL NO. 366 OF 2026

Pankaj Alias Bunty Raju Nair ..Appellant

Versus

State of Maharashtra …Respondent

WITH

INTERIM APPLICATION NO. 1289 OF 2026

IN

APPEAL NO. 366 OF 2026

WITH

INTERIM APPLICATION NO. 1290 OF 2026

IN

APPEAL NO. 366 OF 2026

Mr. Prabhanjan Dave, with Amrish Salunke, for the Appellant/Applicant.

Mr. D.J. Haldankar, APP, for the Respondent-State.

CORAM: N. J. JAMADAR, J.

DATE : 1st OCTOBER 2026

P.C.:

INTERIM APPLICATION NO. 1289 OF 2026 (FOR SUSPENSION OF SENTENCE) AND INTERIM APPLICATION NO. 1290 OF 2026 (FOR BAIL):

1. Heard the learned Counsel for the parties.

ARUN RAMCHANDRA SANKPAL

Digitally signed by ARUN RAMCHANDRA SANKPAL
Date: 2026.10.03 13:53:36 +0530

2. These Applications are for suspension of sentence, and to enlarge the Applicant on bail.

3. By a judgment and order dated 5th March 2026, in Sessions Case No. 173 of 2017, passed the learned Sessions Judge, Greater Mumbai, the Applicant (Accused No.1) and co-accused Manoj Vyankatesh Darumal (Accused No.3), have been convicted for an offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code") and sentenced to suffer Rigorous Imprisonment for a term of 10 years and pay a fine of Rs.5,000/- each, with default stipulation.

4. The Applicant and the co-accused were prosecuted on the allegations that, on the night intervening 15th and 16th July 2016, while the first informant (PW1) was passing from in front of P.M.G.P. Colony, Dharavi, the Applicant (A1) accosted him. The other co-accused came thereat. The Applicant and the co-accused raked up a quarrel over a previous incident of assault. The Applicant (A1) allegedly took out a knife and gave blows on the stomach and head of first informant, who suffered bleeding injuries.

5. After the appraisal of the evidence, the learned Sessions Judge found the Applicant and co-accused, Manoj Vyankatesh Darumal (A3) guilty of the offence punishable under Sections 307 read with Section 34 of the Penal Code and sentenced them, as indicated above.

6. Mr. Dave, the learned Counsel for the Applicant, submitted that the first informant has categorically stated that he was not assaulted by the Applicant. Unknown persons had assaulted him. The learned Sessions Judge committed an error in convicting the Applicant and the co-accused, solely on the basis of the testimony of PW2, who was allegedly an eye-witness. Taking the Court through the testimony of PW2, Mr. Dave would urge that, it does not inspire confidence. There is no other evidence to connect the Applicant with the alleged offence.

7. In opposition to this, Mr. D.J. Haldankar, the learned APP, submitted that the learned Sessions Judge has correctly appreciated the evidence. PW2 had known the Applicant, co-accused and the first informant since childhood. PW2 has categorically deposed that Manoj Darumal (A3) caught hold of the informant and the Applicant gave blows by means of knife. The medical evidence lends corroboration to the version of PW-2. Hence, the Applicant does not deserve to be enlarged on bail.

8. It is trite, the testimony of a witness who has turned hostile does not get completely effaced. Such part of the testimony of a hostile witness can be legitimately taken into account which finds corroboration in the other evidence. In the case at hand, there is *prima facie* material to show that the informant had sustained grievous injuries on account of the assault by means of a sharp weapon. The fate

of the prosecution turns upon the identity of the Applicant as one of the assailants.

9. As noted above, the first informant has categorically declined to identify the Applicant as one of the assailants. He deposed that unknown persons had assaulted him. At the same time, PW2 was steadfast in asserting that, it was the Applicant who had assaulted the first informant by means of a knife.

10. At this juncture, the evidence of PW2 cannot be evaluated meticulously. However, the Court finds that the incident, according to the prosecution, had occurred after midnight on 16th July 2016. In contrast, PW2 deposed that the incident had occurred between 10.00 pm to 11.00 pm. Having regard to the significant discrepancy in the time of occurrence, the questions as to whether implicit reliance could have been placed on the testimony of the PW2 and whether PW2 had opportunity to witness the incident, *prima facie,* warrant consideration at the final adjudication of the appeal.

11. So far as the circumstantial evidence, evidently, PW2 expressed his inability to identify the weapon which was recovered purportedly pursuant to the discovery made by the Applicant. Even panch witness who allegedly witnessed the discovery expressed his inability to identify the Applicant as the person who made the discovery leading to the recovery of the weapon of offence.

12. In the aforesaid circumstances, the Applicant can be said to have succeeded in making out a *prima facie* case that, he has a fair chance of success in the Appeal.

13. As the Appeal is of the year 2026 and it is unlikely that this Appeal can be taken up for hearing and final disposal, in near feature, and the Applicant has undergone sentence of about 11 months, this Court is inclined to exercise the discretion in favour of the Applicant.

14. Hence, the following order:

(i) Applications stand allowed.

(ii) The substantive sentence imposed on the Applicant, Pankaj Alias Bunty Raju Nair, by the Sessions Judge, Greater Mumbai, in Sessions Case No. 173 of 2017 arising out of Crime No. 357/2016, Dharavi Police Station, Mumbai, stands suspended till the final disposal of the Appeal.

(iii) The Applicant be enlarged on bail, on furnishing a PR Bond in the sum of Rs.25,000/- and one or two sureties in the like amount, to the satisfaction of the learned Sessions Judge.

(iv) The Applicant shall not contact, or give threat to, the first informant and the witnesses examined by the prosecution.

(v) Upon being released on bail, the applicant shall furnish his address(es) and contact number to the Investigating Officer and keep him informed in case of any change therein.

(vii) The Applicant shall mark his presence at Dharavi Police Station, Mumbai, on the first Monday of November and May, every year, till the final disposal of the Appeal.

Applications disposed.

[N. J. JAMADAR, J.]