# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
# CRIMINAL APPELLATE JURISDICTION

## CRIMINAL APPEAL NO. 709 OF 2026

Aakash Madhukar Kurnekar ..Appellant

Versus

The State of Maharashtra & anr. …Respondents

## WITH
## INTERIM APPLICATION NO. 2853 OF 2026
## IN
## CRIMINAL APPEAL NO. 709 OF 2026

Mr. Amol A Shinde a/w Ms. Alfiya R Shaikh, for the Appellant/Applicant.

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

CORAM : N. J. JAMADAR, J.
DATE : 20th August 2026

SAINATH SANJAY BODKHE
Digitally signed by SAINATH SANJAY BODKHE
Date: 2026.08.25 12:54:27 +0530

P.C.:

APPEAL/709/2026

1. Heard.

2. Admit.

3. Issue notice to the respondents.

4. Mr. Haldankar, the learned APP, waives notice for the Respondent No.1.

5. In addition to notice through Court, the appellant is at liberty to serve the Respondent No.2 by private service and file an Affidavit of Service.

6. Call R & P.

## IA/2853/2026

7. This is an application for suspension of sentence and to enlarge the applicant on bail during the pendency of the appeal. The applicant was prosecuted for the offenfces punishable under Sections 307, 323, 324, 427, 452, 504, 506 and 509 of the Indian Penal Code, 1860 ("IPC").

8. The gravamen of indictment against the applicant was that, as a sequel to a quarrel that had taken place on 27th July, 2020 at about 04:00 p.m., the applicant had forcibly entered the house of the informant and assaulted Sanket (PW-2) by means of an axe, damaged the Air Cooler and the other articles, in the house of the informant.

9. By the impugned judgment and order, the learned Sessions Judge was persuaded to return the finding of guilt against the applicant for the offences punishable under Sections 307 and 452 of IPC and acquit the applicant of the offences punishable under Sections 427, 504, 506 and 509 of IPC. For the offences punishable under Sections 307 and 452 of IPC, the applicant has been sentenced to suffer rigorous imprisonment for 7 years and pay fine of Rs.10,000/-, on each count, with default stipulation.

**10.** Mr. Amol Shinde, the learned Counsel for the applicant, submitted that, the learned Sessions Judge committed a grave error in convicting the applicant for the offence punishable under Section 307 of IPC. Both the alleged victims had suffered simple injuries only. There was no intention to cause death. The medical evidence indicates that, the injuries were allegedly caused to the victims by hard and blunt object and not a sharp weapon like axe. The applicant was 22 years of age at the time of the alleged occurrence. Therefore, the sentence be suspended and the applicant be enlarged on bail.

**11.** In opposition to this, Mr. Haldankar, the learned APP, submitted that the testimony of the injured and the informant (PW-1 to PW-3) finds corroboration in the medical evidence as well as the electronic evidence in the form of CCTV footage. Moreover, the weapon was recovered pursuant to the discovery made by the applicant. Since there is overwhelming evidence against the applicant which fully justifies the impugned judgment and order, this Court may not exercise the discretion to release the applicant on bail.

**12.** I have perused the evidence and material on record. The genesis of the offences appears to in the previous quarrel between the members of the rival fractions. The medical

certificates of both the victims indicate that, Sandesh Kamble (PW-1), had sustained one CLW and two abrasions and Sanket Kamble (PW-2) had sustained two CLWs only. The Medical Officer had designated the injuries as simple. The injuries were stated to have been caused due to the hard and blunt object. The medical evidence also renders the aspect of the use of the axe as a weapon of offence debatable as the Medical Officer has categorically testified that, the injuries were caused by the hard and blunt object. In the backdrop of the aforesaid nature of the medical evidence, the question as to whether there was intent to commit murder would warrant consideration at the final hearing of the appeal.

**13.** It is true that, for an offence punishable under Section 307 of IPC, the proof of injuries is not indispensable. Yet, in the circumstances of the case, whether the applicant had necessary intention to commit the murder of the injured is a matter which merits serious consideration at the appeal.

**14.** In the aforesaid view of the matter and having regard to the genesis and nature of the occurrence, and age of the applicant, this Court is inclined to exercise the discretion. The Court also cannot loose sight of the fact that, having regard to the large pendency of the cases before this Court, this Appeal

cannot be taken up for hearing and final decision in the near future. Thus, the application for suspension of sentence deserves to be allowed.

**15.** Hence, the following order :-

**: : O R D E R : :**

(i) The Interim Application stands allowed.

(ii) The substantive sentence imposed by the learned Sessions Judge in Sessions Case No. 84/2021, arising out of CR No. 192/2020 registered with Sarkarwada Police Station on the Applicant stands suspended till the final disposal of the appeal.

(iii) The Applicant – Aakash Madhukar Kurnekar, be enlarged on bail on furnishing a PR Bond in the sum of Rs.25,000/- and a surety in the like amount to the satisfaction of the learned Sessions Judge.

(iv) The Applicant shall mark his presence at Sarkarwada Police Station, on the first Monday of September and March every year, till the disposal of the appeal.

(v) Upon being released the Applicant shall furnish his address and cell phone number to the Police

Station Officer, Sarkarwada Police Station and shall keep him informed about the change therein.

(vi) The applicant shall not enter the limits of Sarkarwada Police Station for a period of 3 years or till the final disposal of the appeal, whichever is earlier.

(vii) The Applicant shall attend the proceedings in this appeal, as and when directed.

[N. J. JAMADAR, J.]