

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 626 OF 2025
IN
CRIMINAL APPEAL NO. 149 OF 2025

Jeevan Suresh Pawar	...Applicant
<i>Versus</i>	
State of Maharashtra and anr.	...Respondents

Mr. Niranjan Bhavake a/w Drishti Madhani, Anurag Ramekar and
Vaishnavi Chore i/by Sushant J. Tayade, for the Applicant.
None for the Respondent No.2.
Mr. H. J. Dedhia, APP, for the State.

CORAM: R. M. JOSHI, J.

DATED: 21st JANUARY, 2026.

PC:-

1. During the course of hearing of application for suspension of sentence and bail sought by the Appellant, it is revealed that though the prosecution has examined seven witnesses in Sessions Case No.1381/2022, out of these witnesses only PW-1 injured Informant was cross-examined on behalf of the Accused. No other witness was cross-examined.
2. In view of the above facts, by consent of both the sides, Appeal is heard finally.
3. Learned counsel for the Appellant submits that owing to the mistake on the part of the legal aid counsel, the witnesses were not cross-examined and therefore it is necessary that the impugned

judgment be set aside and the matter is relegated back to the Trial Court for giving opportunity of cross examination of the witnesses to the defence. He, however, seeks enlargement of the Appellant on bail.

4. Learned APP opposes said contention by pointing out that instead of giving sufficient opportunity, if the witnesses examined by the prosecution are not cross-examined by the defence, no fault can be found with the Court in passing the judgment impugned. He opposed grant of bail to the Appellant.

5. Perusal of the record of the case indicates that out of seven witnesses, only PW-1 was cross-examined on behalf of the defence. Without going into the contentions of both the sides and with regard to whose fault this situation has arisen, suffice it to say that the Appellant accused is denied opportunity of defend himself before the Trial Court. Pertinently, even while recording of statement under Section 313, the Appellant was not represented by a lawyer. In such circumstances, this Court finds it appropriate to set aside the impugned judgment and relegate bearing Sessions Case No.1381/2022 to the Trial Court for permitting the defence to cross-examine PW-2 to PW-7.

6. Having regard to the nature of offence and since there was already a conviction recorded against the Appellant, this Court does not find it appropriate to enlarge the Appellant on bail. Instead, it will be in the interest of justice that the Trial Court is directed to conclude the trial within a period of three months from 2nd February, 2026.

7. Learned counsel for the Appellant, on instructions of the father of the Appellant who is present in the Court, states that the Appellant would engage his own lawyer before the Trial Court.

8. It is clarified that for any reason his lawyer fails to remain present before the Trial Court, it would be open for the the Trial Court to close the evidence of any witnesses who is present in the Court.

9. In view of the above, the following order is passed:

ORDER

(i) The impugned judgment and order dated 21st December, 2024 passed in Sessions Case No.1381/2022 is hereby set aside.

(ii) The Sessions Case No. 1381/2022 is relegated back to the Trial Court for permitting the defence to cross-examine PW-2 to PW-7 and to lead defence evidence, if so desired.

(iii) The trial to commence from the stage of cross-examination of PW-2 and PW-7.

(iv) It is clarified that the impugned judgment and order is not set aside on merits. The Trial Court to pass order afresh after considering the evidence on record once witnesses are cross-examined by the defence.

10. Needless to say that after conclusion of the evidence it would be necessary for the Trial Court to put the incriminating circumstances to the accused under Section 313 of the Cr.P.C. once again.

11. In view of the above, appeal is disposed.

12. In view of disposal of appeal, interim application does not survive hence disposed of.

(R. M. JOSHI, J.)