

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 998 OF 2025
IN
CRIMINAL APPEAL NO. 1182 OF 2022**

Rama @ Ramu Devji Shedad ... Applicant
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Anush Shetty i/by Dr. Yug Mohit Chaudhry for the Applicant.
Dr. Dhanalakshmi S. Krishnaiyer, APP for Respondent-State.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.
DATE : 27th JANUARY 2026**

P.C. :

. Heard learned counsel for the applicant (original accused) and the learned APP for the State.

2. By this application, the applicant is seeking bail as he has remained incarcerated for a period of about 6 years and 9 months, pending trial and also pending the accompanying appeal.

3. The applicant by way of the accompanying appeal has challenged judgment and order dated 2nd May 2022 passed by the Court of Additional Sessions Judge, Thane (hereinafter referred to as 'trial Court' for short) in Sessions Case No. 335 of 2019. The trial Court has convicted the applicant for offence under Section 302 of the Indian Penal Code, 1860 (IPC) and sentenced him to suffer imprisonment for life, as also to pay fine of Rs.1,000/-, in default of which to suffer simple imprisonment for 1 year.

4. The learned counsel for the applicant submits that a perusal

of the evidence relied upon by the prosecution itself would show that the applicant has made out a strong *prima facie* case in his favour to assert that the trial Court committed an error in convicting him for the said offence. It is submitted that the evidence of the prosecution falls short of proving the case against the applicant beyond reasonable doubt. In that context, learned counsel for the applicant invited attention of this Court to evidence of the prosecution witness, including PW1, PW4, PW10, PW11 and PW13 along with other documents on record, to contend that even if such evidence is to be taken into consideration, the prosecution has failed to prove its case beyond reasonable doubt and that the trial Court committed an error in accepting the case of the prosecution.

5. It is submitted that there is no direct evidence in the present case and the theory of extra-judicial confession is hit by a number of deficiencies, including absence of Call Detail Records (CDRs), failure of seizure of mobile phones of the applicant as well as PW10 i.e. a witness for the extra-judicial confession. It is submitted that the recoveries were after more than a month of the incident and that the CA reports also do not support the case of the prosecution. It is emphasized that the only person, who allegedly saw the accused commit the act i.e. one Laxman, was never examined by the prosecution because he died by the time the trial was underway. On this basis, it was submitted that this Court may consider allowing the application.

6. On the other hand, the learned APP vehemently opposed the contentions raised on behalf of the applicant. It was submitted that the contentions sought to be raised at this stage, deserve consideration at the stage of final hearing and that the trial Court in the present case, considered all the circumstances comprehensively to return findings against the applicant. It was submitted that the evidence of the prosecution witnesses indeed proved the case of the prosecution beyond reasonable doubt. It was submitted that even though the aforesaid Laxman died before he could be examined during the course of trial, his statement under Section 164 of the Code of Criminal Procedure, 1973 (Cr.P.C.) was on record. It was submitted that, in any case, there was sufficient material to show that the applicant had a series of quarrels with the deceased. Registration of a report of non-cognizable offence, one day prior to the incident, clearly shows the backdrop in which the incident took place that led to prosecution of the applicant. It was submitted that the aforesaid material coupled with the extra-judicial confession do make out a strong case against the applicant and therefore, this Court may not grant bail to the applicant.

7. We have considered the rival submissions in the light of the evidence of the prosecution. We have perused the evidence of the prosecution witnesses, only with a view to arrive at a conclusion as to whether a *prima facie* case is made out by the applicant for being released on bail.

8. We find that the trial Court, while holding against the applicant, placed much emphasis on the extra-judicial confession of the accused for which PW10 is a crucial witness. The other circumstances like recovery of weapon, recovery of clothes and medical evidence were also taken into consideration by the trial Court.

9. Upon perusal of the evidence of PW1, we find that while he has asserted that the applicant entered into the hall of the house where the incident took place, through the window, at about 3:00 a.m. on the date of the incident and assaulted the victim by means of knife, giving an impression as if he was an eye-witness to the incident. But, his statement that led to registration of the FIR, shows that the incident was narrated to him by the said Laxman. It is the statement of the PW1 himself that after Laxman saw the incident, he and his wife got up from sleep and when they went to the hall, they found the victim was lying in a pool of blood. We find that the applicant has made out a *prima facie* case to contend that the said witness PW1 can be said to be a witness of hearsay evidence and that he cannot be said to be a direct eye-witness to the incident in question.

10. PW4 is the wife of the said Laxman and she has deposed on the basis of the narration of the incident by the said Laxman and therefore, her evidence can *prima facie* be also categorized as hearsay evidence. The aforesaid Laxman could not be examined as he died before the trial was conducted. Thus, we find that there is

absence of a direct eye-witness to the incident in question.

11. In such a situation, the main incriminating circumstance appears to be the extra-judicial confession given by the applicant to PW10. Even as per the evidence of the said witness PW10, such an extra-judicial confession was given on 11th April 2019, while the incident is said to have taken place on 28th March 2019. The said witness has deposed that Police had called him on the next date of the conversation and that thereafter, he never visited the police station. This is contradicted by the evidence of PW13 i.e. Investigating Officer, who says that the statement of PW10 was recorded on 1st May 2019.

12. Apart from this, although the memory card purportedly containing the recording of the conversation between the accused and PW10 was recovered, the mobile phones of both the applicant and PW10 were never seized during the course of investigation. CDRs were also not taken, thereby showing absence of evidence to confirm that the purported extra-judicial confession was in a conversation dated 11th April 2019, which was recorded by PW10. In cross-examination, the said witness even conceded that he had no knowledge regarding mobile phone operation. Absence of seizure of the mobile phone demonstrates lack of evidence to show as to whether the mobile phone actually had a facility of recording or not.

13. Apart from this, the voice sample of the applicant was taken, while that of PW10 was never taken during the course of

investigation. These factors *prima facie* create doubt about the veracity of the extra-judicial confession, which appears to be the most crucial part of the evidence taken into consideration by the trial Court, while holding against the applicant.

14. The evidence pertaining to recoveries can be taken into consideration, but the result of CA analysis being inconclusive shows a lack of link between the recoveries and the accused having actually used the weapon of assault when the incident took place.

15. Considering the aforesaid material, we have come to a conclusion that the applicant has made out a *prima facie* case in his favour, while asserting that the conclusions rendered by the trial Court against him, can be said to be erroneous.

16. It is also a matter of record that the applicant has already suffered incarceration of about 6 years and 9 months and this is also a factor to be taken into consideration, while disposing of the present application.

17. Some apprehension was expressed by the learned APP that granting bail to the applicant may lead to a situation where he will visit the very village of which the witnesses are residents and this may lead to untoward incidents. We are of the opinion that appropriate conditions can be imposed to address the said apprehension.

18. In view of the above, the application is allowed in the following terms :

- (a) The applicant shall be released on bail in connection with Sessions Case No. 335 of 2019, arising out of C.R. No. 38 of 2019, on furnishing P.R. Bond of Rs. 25,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (b) During the pendency of the appeal, the applicant shall not enter the jurisdiction of Vikramgad Police Station, Dist. Palghar.
- (c) The applicant shall report to Wada Police Station, Dist. Palghar, during the pendency of the appeal, on first Monday of every month between 10:00 a.m. and 12:00 noon.
- (d) The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

19. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present application.

20. The application is disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)