

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 3468 OF 2025****IN****CRIMINAL APPEAL NO. 1014 OF 2025**

Vikas Rammurat Mishra

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. M.G. Shukla, Appointed Advocate for Applicant.

Smt. Mankuwar M. Deshmukh, Acting P.P. a/w Mr. Vinod Chate, A.P.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 13th March 2026

P.C. :

1) This is an Application for suspension of sentence and releasing the Applicant on bail, during the pendency of Appeal.

2) Heard Mr. Shukla, learned Advocate Appointed to represent the Applicant and Smt. Deshmukh, learned Acting P.P. for Respondent, State. Perused record.

3) It is the case of the prosecution that, on 11th March 2021, at about 3.00 p.m., the Applicant went to the house of the deceased to drink liquor. They had brought country-made liquor. While they were drinking

liquor, the Applicant told the deceased that, he will bring a girl for fun. However the deceased Vijaykumar did not accept to his said request rather opposed it. Thereafter, the Applicant left the said spot and came with a girl at the said place. The said act of the Applicant was not approved by the deceased Vijaykumar and therefore he went to inform the said fact to Mr. Mala Giri (PW No. 1). Thereafter Mr. Mala Giri (PW No. 1) with his wife and deceased Vijaykumar came at the said room and they called the landlady, Mrs. Kadam (PW No. 3). The landlady admonished the Applicant about his act and directed him to leave the said place immediately. At about 4:30 p.m., the Applicant returned to the said room, he was apparently annoyed towards conduct of the deceased and questioned the deceased that, as to why, he told his act about the said girl to Mr. Mala Giri (PW No.1). The Applicant was not in a mood to listen and started assaulting deceased with fist and kick blows. The Applicant also assaulted PW No.1 by fist and kick blows when he tried to rescue the said fight. In the said melee PW No.1 also sustained certain injuries. Thereafter, the Applicant picked up a vegetable knife, which was lying in the kitchen and assaulted the deceased with it on his neck and stomach. PW No.1 saw the said incident and rushed outside of the room to save himself. In the said assault, the deceased Vijaykumar lost his life.

4) Record *prima facie* indicates that the Applicant, due to the incident which occurred at 3.00 p.m., had grudge in his mind against the deceased and therefore immediately returned to the said room and started

assaulting deceased and PW No.1 and in the heat of passion, he bring upon the knife, which was lying in the kitchen and with it stabbed the deceased.

5) Mr. Shukla, learned Apointed Advocate appearing for the Applicant submitted that, the act of the Applicant would fall within the purview of exception 4 of Section 300 of the Indian Penal Code and therefore attracting Section 304 part II of the Indian Penal Code and not Section 302 of the Indian Penal Code. *Prima facie* we find substance in the said submission.

6) In view of the above, we are inclined to suspend the substantive sentence imposed upon the Applicant and released him on bail, during the pendency of Appeal.

6.1) Hence, the following Order :-

- [i] During the pendency of Appeal preferred by the Applicant, the substantive sentence imposed upon the Applicant vide Judgment and Order dated 2nd April 2025, passed by the learned Additional Sessions Judge, Greater Mumbai, in Sessions Case No. 150 of 2022, is suspended and the Applicant be released on bail on his furnishing PR bond of Rs. 50,000/- with one or two local sureties in the like amount.
- [ii] Before his release from jail, the Applicant shall give his prospective residential address and the mobile and/or landline number on which he or his any close relative can be contacted.

- [iii] After his release from jail, the Applicant shall attend the Wadala Police Station, Mumbai, on every first Monday of each month between 10.00 a.m. and 12.00 noon initially for a period of one year and thereafter on every first Monday between 10.00 a.m. and 12.00 noon of every third calendar month i.e. four times in a year, till the disposal of Appeal.
- [iv] In case of two consecutive defaults in complying with the aforesaid conditions, the prosecution is at liberty to file an Application for cancellation of bail.
- 7) Application is allowed in the aforesaid terms.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)