

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL INTERIM APPLICATION NO. 4756 OF 2025
IN
CRIMINAL APPEAL NO. 1252 OF 2025

Aakash Shuklal Bhoys
Versus
State Of Maharashtra & Anr.
...Appellant
...Respondents

Mr. Rajay Gaikwad with Mr. Nilesh Mohite for the Appellant.
Mr. Rishikesh Pethe , APP for the State.

CORAM : R.M. JOSHI, J.
DATE : 20th FEBRUARY, 2026

P.C. :

1. The learned Counsel for the Appellant makes statement that the Appellant has deposited fine amount before the Trial Court. The statement is accepted.
2. This Application is for suspension of the sentence and enlargement of the Appellant on bail in connection with judgment and order dated 10th October 2025 passed in Sessions Case No. 242 of 2020 whereby the Appellant /Original Accused No.1 came to be convicted for the offence punishable under Section 307 of IPC and sentence to suffer rigorous imprisonment for seven years with fine of Rs. 1 lakh with default sentence.

3. Learned Counsel for the Appellant submits that , the Appellant is directed to undergo fixed terms sentence. He drew attention of the Court to the evidence of injured who in examination-in-chief does not state that the assailants came to the spot with their faces covered, in the cross-examination he admits the said fact. He further drew attention of the Court to the evidence of the Investigating Officer, which indicates that during the investigation, it was not revealed that the assailants had covered their faces. This according to him, creates serious doubt with regard to the testimony of the injured and coupled with the fact that there was previous enmity between the parties, offence is not proved beyond doubt.

4. Learned APP opposed the Application by contending that the evidence of injured witness which shows that the Appellant-accused and co-accused caused assault on him. It is his submission that since the Appellant and the injured had acquaintance with each other, even if their faces were covered, it was possible for the injured to identify Appellants.

5. In order to seek any order of suspension of sentence and enlargement on bail, Appellant has to *prima facie* make out the case for fair chance of success in the appeal. The injured in his testimony before the Court has not state that the assailants had been to the spot with their faces covered and their eyes only being visible. In the cross-

examination however, he admits the said fact in no uncertain terms. Even if this Court accepts the contention of learned APP that there is every possibility of a known person being identified in spite of the face covered, the evidence of Investigating Officer does not indicate so, when he does not state about such fact being revealed in the investigation. Thus, there is clear inconsistency in the evidence of the injured and the Investigating Officer. It becomes material in view of admitted fact that there are disputes between the parties. As such, this is a case wherein it can be said that the Appellant has fair chance of success in the appeal.

6. The Appellant is sentenced to suffer seven years imprisonment. The appeal is not likely incurred in a short period of time. In order to ensure that the appeal does not become infructuous and also in view of the fact that the Appellant has good chance of success, Application deserves to be allowed. The Appellant has no criminal history behind him he is not likely to flee. Hence the following order:

ORDER

(i) The substantive sentence imposed against the Appellant- Accused by the trial Court by the judgment and order dated 10th October 2025 passed in Sessions Case No. 242 of 2020 stands suspended till the decision

of the appeal.

(ii) The Appellant be enlarged on bail on furnishing PR Bond of Rs. 15,000/- with one surety in the like amount.

(iii) Bail before the Trial Court.

(iv) Appellant not to contact victim or any witness in any manner whatsoever.

(v) In order to ensure that, the Appellant is available during the hearing of the Appeal, the Appellant to mark his attendance before the concerned police station once in six months.

(vi) Any breach of this condition will result the vacation of this order and the Appellant shall be taken in custody for undergoing the remaining sentence.

(vii) The observations made herein above are *prima facie* in nature and won't bind parties at time of hearing of appeal.

(R.M. JOSHI, J.)

Mandar M.