

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

**INTERIM APPLICATION NO. 4828 OF 2025
IN
CRIMINAL APPEAL NO. 99 OF 2026**

Kishor Prakash Shinde	...	Applicant/ Appellant
Versus		
The State of Maharashtra	...	Respondent

Mr. Jagdish G. Shetty a/w Mr. Mohammed Ayus Shaikh for the
Applicant/Appellant.
Dr. Dhanalaxmi S. Krishnaiyer, APP for Respondent-State.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 13th FEBRUARY 2026

P.C. :

- . Heard learned counsel for the applicant (original appellant).
2. In the appeal, on 21st January 2026, we had passed the order admitting the appeal after condoning delay and it was directed to be tagged along with Criminal Appeal No. 691 of 2022.
3. By this application, the applicant is seeking suspension of sentence and for being enlarged on bail.
4. The learned counsel for the applicant relies upon order dated 13th August 2024 passed by a coordinate Bench of this Court, allowing the bail application of the co-accused person. By the said order, the Division Bench of this Court, considered the

merits of the matter and also took into the consideration fact that the co-accused person had suffered incarceration for more than 10 years.

5. The learned counsel for the applicant invited attention of this Court to the evidence of the prosecution witnesses and submitted that most crucial witness i.e. PW4, for supporting the theory of last seen together of the prosecution, turned hostile and he did not support the case of the prosecution. It was further submitted that the aspect of recovery of weapon and blood stained clothes is a factor common with the co-accused person, at least insofar as the blood stained clothes is concerned. It is submitted that the co-accused person is granted bail despite the said material available on record and hence, it is submitted that this Court may consider granting relief to the present applicant.

6. It is submitted that this applicant has also suffered incarceration for more than 10 years. The applicant was arrested on 12th July 2014 and he has remained behind bars till date. The period of custody suffered by the applicant is also a factor pressed into service by the learned counsel for the applicant, while seeking relief in this application.

7. On the other hand, the learned APP vehemently opposed the prayer made on behalf of the applicant. It was submitted that this Court could hear the appeal, as the paper book is ready in the appeal of the co-accused person. It is submitted that although PW4 had turned hostile, his cross-examination on behalf of the

prosecution revealed certain facts that continued to support the theory of last seen together propounded on behalf of the prosecution. Much emphasis was placed on recovery of blood stained clothes and the weapon of assault, apart from the evidence of the other witnesses.

8. We have considered the rival submissions. While granting bail to the co-accused person, a coordinate Bench in the order 13th August 2024, passed in Interim Application No. 2960 of 2024 in Criminal Appeal No.691 of 2022, observed as follows :

“4. Perused the papers. Admittedly, the prosecution case rests on circumstantial evidence. As far as the applicant is concerned, the circumstances relied upon by the prosecution are last seen evidence and recovery of blood stained clothes at the instance of the applicant. As far as the last seen evidence is concerned, PW4-Firoz Ibrahim Pathan has turned hostile and as such, has not supported the prosecution case. Thus, the only evidence qua the applicant is that of recovery of blood stained clothes.

5. It is not in dispute that the applicant is in custody since 26th July, 2014, for more than 10 years. The appeal is of the year 2002 and is not likely to be heard in the immediate near future.

6. Considering the aforesaid, the application is allowed and the applicant’s sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions;”

9. We took the note of the fact that the accompanying appeal is of the year 2022 and it appears that there is typographical error in the above quoted portion of the order passed by the coordinate Bench, where it is recorded that the appeal is of the year 2002.

10. We find that the fact that PW4, the witness for last seen together, having turned hostile is an aspect that cannot be denied and since the said aspect was taken into consideration by a coordinate Bench, while granting bail to the co-accused person, we are inclined to grant benefit to the applicant in this application also. As regards recovery of blood stained clothes, this was also a factor taken into consideration by the coordinate Bench and yet, bail was granted, thereby indicating that the aspect of parity cannot be ignored.

11. It is relevant to note that the order passed by the coordinate Bench, granting bail to the co-accused person, was not challenged on behalf of the prosecution.

12. On the aspect of the extent of incarceration already suffered by the applicant, we find that in the present case, the applicant has remained behind bars for about 11 years and 7 months. We also find that even though the paper book is ready, the chances of the appeal being heard finally in the near future do not appear to be very bright. Hence, we are inclined to allow the application.

13. In view of the above, the application is allowed, the sentence is suspended and the applicant is directed to be enlarged on bail, on the following conditions :

- (a) The applicant is enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(b) The applicant shall report to the trial Court, once in six months on the day/date specified by the trial Court, till his Appeal is finally disposed of;

(c) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

(d) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

14. The application is disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)