

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.20 OF 2026
IN
APPEAL NO.2 OF 2026

Jisat @ Jisan Samim Siddiqui

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Vinay Bhanushali a/w. Adv. Sanmit Vaze for the Applicant.
Ms. Madhavi H.Mhatre, APP, for the Respondent-State.

CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.
DATE : 6th March 2026

P.C.:-

- 1) This is an Application by A.No.2 for suspension of sentence and releasing the Applicant on bail, during the pendency of Appeal.
- 2) Heard Mr. Bhanushali, learned Advocate for the Applicant and Smt. Madhavi Mhatre, learned APP for the State. Perused the record.
- 3) It is the case of the prosecution that, the deceased Rupesh S. Waghe was married to Accused No.1, Laxmi. However, there was a marital discord and therefore, Laxmi along with her daughter was residing separately with her mother at Chinchpada, Rabale, Thane.

4) The deceased Rupesh S. Waghe used to visit his daughter. Laxmi developed illicit relations with Applicant. On 21st January 2020 at about 11:00 p.m, when Rupesh had been to the place of Laxmi to meet his daughter, he saw that, the Applicant was present there. He, therefore got annoyed and started assaulting Laxmi and Applicant by hands. In-retaliation, both the accused also assaulted Rupesh. Accused No.1, Laxmi took a sickle which was lying there and assaulted the deceased Rupesh on different parts of his body.

4.1) It is alleged that, the Applicant assaulted Rupesh with a wooden stick which was lying outside the house. During the said scuffle, the deceased Rupesh started running from the said place, however, both the accused pelted a brick and a cement block on him and therefore, Rupesh sustained bleeding injury. He had also sustained various injuries on several parts of his body. While running Rupesh fell down. The police took him to the hospital. The statement of Rupesh was recorded by the Police in hospital which is treated as First Information Report. Rupesh succumbed to injuries while undergoing treatment on 22nd January 2020 in the hospital.

5) The learned Judge of the Trial Court has convicted the Applicant and co-accused Laxmi Rupesh Waghe under Section 302 read with Section 34 of the Indian Penal Code and has sentenced them to suffer imprisonment for life, by its impugned Judgment and Order dated 28th October 2025.

6) Mr. Bhanushali, learned Advocate appearing for the Applicant submitted that, accepting the prosecution case as it is, no offence under Section 302 of IPC is made out. According to him, the Exception 4 of Section 300 is applicable to the facts of the present case and therefore, at the most an offence under Section 304 (Part II) of IPC can be attributed or said to have been committed by the Applicant.

6.1) He submitted that the Applicant is behind the bars for more than 6 years. He, therefore, requested this Court to grant bail to the Applicant, during the pendency of the Appeal.

7) After perusing the record, we prima facie find that, there is substance in the submissions advanced by learned Advocate Mr. Bhanushali. The facts narrated in foregoing para Nos.3 and 4, prima facie indicates that, it was the deceased Rupesh who initially got annoyed after seeing the Applicant at the place of Laxmi and therefore, got provoked and started assaulting the Accused persons. In-retaliation the accused assaulted him with the weapons lying at the spot itself.

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

8.1) Hence, the following Order:-

- i) During the pendency of Appeal, the substantive sentence imposed upon the Applicant is suspended.

- ii) Applicant be released on bail in Session Case No.307 of 2023 arising out of FIR/Crime No.21 of 2020 registered with Rabale MIDC Police Station, Thane, on his furnishing PR bond of Rs. 50,000/- with one or more solvent local sureties in the like amount.
- iii) After his release from jail and during the pendency of the present Appeal, the Applicant shall attend the Rabale MIDC Police Station, Thane, on every first Monday of the month between 10.00 a.m. and 12:00 noon initially for a period of one year.

After end of one year, the Applicant shall attend Rabale MIDC Police Station, Thane on every first Monday of the every 3rd month between 10:00 am 12:00 noon. The Applicant thus shall attend Rabale MIDC Police Station, Thane, four times in a year during the pendency of the present 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.
- 9) Interim Application is allowed in the aforesaid terms.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)