

Salgaonkar

MANDIRA MILIND
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.513 OF 2026
IN
CRIMINAL APPEAL NO.395 OF 2023

Sunny Kurna Lama .. Applicant/Appellant
Versus
The State of Maharashtra .. Respondent

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Mr.Sachin Salunke for the Applicant.

Mr.Tanveer Khan, A.P.P. for the State/Respondent.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATE : 18th FEBRUARY, 2026

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ORDER (Per Bharati Dangre, J.) :-

1. Advocate Pranali Kakade was appointed through Legal Services Authority to represent the Applicant, but since the Applicant had engaged Mr.Sachin Salunke, Advocate Kakade seek her discharge and we permit the same.
2. Interim Application No.513 of 2026 is filed by the Applicant/Accused No.1 in Criminal Appeal No.395 of 2023, who is convicted by the Additional Sessions Judge, Pune in Sessions Case No.327 of 2013 for committing the offence under

Section 302 read with Sections 120-B, 395, 396 of IPC alongwith Accused No.3-Rijwan Mustafa Patel. By the said Application, the Applicant seek suspension of sentence and his release on bail.

3. The Application seeking the aforesaid relief rely upon the order passed by the Division Bench of this Court in case of Accused No.3-Rijwan Mustafa Patel on 15/12/2015,when pending the hearing and final disposal of Appeal filed by him, his sentence was suspended and he was directed to be released on bail, subject to the conditions stipulated in the order.

While considering the application of Accused No.3-Rijwan, the Court noted that the case is based on circumstantial evidence and the only circumstance alleged against the applicant (Rijwan) is recovery of blood stained knives and his clothes, by invoking Section 27 of the Evidence Act, but the CA Report of the knives did not establish any connection with the death of two deceased and even in confessional statement of Accused No.1, recorded by the Magistrate, no incriminating act is attributed to him.

4. Heard the learned counsel for the Applicant and the learned Additional Public Prosecutor Mr.Tanveer Khan for the State.

We have perused the order dated 15/12/2015 passed in the case of Rijwan Mustafa Patel, who was also tried and convicted alongwith the present Applicant, being arraigned as Accused No.1.

On reading of the impugned judgment, we have noted that the basis of conviction of the present Applicant is the statement given by him to the Magistrate under Section 164 of the Criminal Procedure Code 1973 ('Cr.P.C.'), where he has confessed to the commission of crime. The learned Judge, relying upon the aforesaid statement in form of remorse, accepted the same in evidence, by relying upon the decision in the case of *Hem Raj Vs. State of Ajmer*¹ arrived at a conclusion that it is not necessary to have any corroboration on each and every statement mentioned in the confessional statement, as otherwise the confession which is in voluntary, will lose its significance. Referring to the confessional statement given by the Applicant as regards the motive for commission of crime, being robbery of consideration received towards the flat by the deceased couple and the role attributed to the accused, the learned Judge has relied upon the medical evidence to note that since the confession statement has stated that the absconding accused inflicted injuries by knife on abdomen and

¹ (1954) 1 SCC 465

different parts of body of Kamlakar Ranjeri and this was corroborated by the medical evidence. Apart from this, there is also a confession as regards the injuries caused to Mrs.Simla Ranjeri, and since, the injuries were corroborated by the medical evidence, the Court form a conclusion that there is sufficient general corroboration to hold that Accused Nos.1 and 3 and absconding accused committed murder of Mrs.& Mr. Kamlakar Ranjeri to commit robbery.

5. It is worth to note that the test for the confession or statement made to a Magistrate in the course of investigation is its voluntariness and unless it is proved that the statement was voluntary, it cannot be relied upon and it is not disputed by Mr.Khan, learned Additional Public Prosecutor that the Magistrate, who recorded the statement, is not examined to establish that the statement given by the accused was voluntary.

Apart from this, in the statement recorded under Section 313 of Cr.P.C, when the Applicant was confronted with the said statement, he denied that such a statement is given by him.

6. In the entire evidence lead by the prosecution, apart from this statement given to the Magistrate, being referred to as confessional statement admitting the guilt, there is no

evidence against the Applicant/Accused No.1. In any case, at the time of hearing of Appeal, the value of the uncorroborated judicial confession/statement given to the Magistrate under Section 164 of Cr.P.C. will have to be determined, but suffice it to note that except the confessional statement, there is no other incriminating evidence against the present Applicant.

Therefore, by extending the benefit of parity to him, since accused-Rijwan Mustafa Patel has been released on bail and even independent of the same, since we are of the *prima facie* view that the Appeal, which is admitted, will take considerable time for its final hearing and *prima facie*, being satisfied with the contentions advanced in the Application about the impugned judgment, being based only upon the confessional statement without any independent corroboration, we deem it appropriate to suspend the sentence imposed upon the Applicant and secure his release on bail. It is also noted that the Applicant is incarcerated since 13 years 1 month and with remission for past 18 years.

Hence, the following order.

: **ORDER** :

(a) Interim Application No.513 of 2026 is allowed.

(b) Pending the hearing and final disposal of Cri.Appeal No.395 of 2023, the sentence imposed upon Applicant-Sunny Kurna Lama vide judgment dated 21/08/2015 in Sessions Case No.327 of 2013 is suspended.

(c) During the pendency of the Appeal, Applicant-Sunny Kurna Lama be released on bail on his furnishing P.R.Bond in the sum of Rs.15,000/- with one or more sureties in the like amount, subject to condition that the Applicant shall make attendance at Warje Malwadi Police Station, District Pune, once in three months i.e. on first Monday between 11.00 a.m. to 1.00 p.m.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)