

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO.710 OF 2026****IN****APPEAL NO.111 OF 2026****Suresh Lalbahadur Singh**

... Applicant

V/s.**State of Maharashtra**

... Respondent

Mr. Rizwan Merchant a/w. Adv. Sultan Khan, Adv. Sagar Shete, Adv. Akash Ghadage, Adv. Khyati Shah for the Applicant..

Ms. P. P. Shinde, APP, for the Respondent-State.

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

DATE : 6th April 2026

P.C.:-

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

2) The Applicant is the real brother of deceased-Ramesh. He stands convicted by the learned Sessions Judge, Mumbai in Sessions Case No.169 of 2022, by Judgment and Order dated 4th December, 2025, under Section 302 of the Indian Penal Code, 1960 ('IPC'), for the murder of his brother Ramesh allegedly committed in his residential premises on 8th October, 2021.

3) The prosecution case in brief is that, the deceased-Ramesh and Applicant being real brothers frequently quarreled amongst themselves over their residential premises for trivial reasons. Deceased-Ramesh was unmarried and resided with his mother Smt. Yashodha. It is alleged that, in the intervening night of 7th October, 2021 and 8th October, 2021, the Applicant assaulted Ramesh with a knife on his chest and abdomen, causing him to fall unconscious on the ground near the house. He was thereafter shifted to the hospital by the son of the Applicant namely, Divyank (not examined), Chetan Bawaji (PW No.1) and Mandar Ambelkar (PW No.2). Ramesh succumbed to his injuries while undergoing treatment in the hospital.

3.1) After lodgment of crime, the Investigating Officer conducted spot panchnama on 8th October, 2021 and prepared a sketch of scene of offence. In the said sketch, it is categorically recorded that, a knife was lying in the kitchen. The prosecution further alleges that, while in custody, the Applicant made a memorandum statement expressing his willingness to point out the place where he had concealed the weapon used in the crime. Pursuant thereto, a kitchen knife is stated to have been recovered from behind a speaker placed in the corner of the deceased's room, as recorded in the panchnama (Exhibit P-32).

3.2) The PW No.1, in his testimony deposed that, after he saw deceased lying down adjacent to the drum, he also noticed the Applicant

walking away with his back towards the said witness, carrying a sharp shining article with him. PW No.2 has similarly deposed that, when he saw the Applicant, leaving the scene of offence, he had a knife-like article in his hand. In these circumstances, it remains a mystery that as to how the same weapon surfaced or could have been concealed behind a big speaker in the house of the deceased, when both the witnesses had seen the Applicant carrying the weapon in his hand while leaving the scene of offence. *Prima facie* it appears to us that, this inconsistency remains unresolved in the prosecution's case.

4) According to us, *prima faice*, the non-examination of the prime witness namely, Smt. Yashodha the mother of both the Applicant and deceased, whose statement under Section 161 of Cr.PC. was recorded by the Investigating Agency, constitutes a serious lacuna in the case of the prosecution.

4.1) A prima facie reading of the record indicates that the incidence appears to have arisen out of recurring quarrels between Applicant and deceased over the suit property, culminating in the assault of the Applicant on the fateful night, which ultimately led to Ramesh's death.

5) Mr. Merchant, learned Advocate for the Applicant submitted that, the trial Court erred in convicting the Applicant under Section 302 of IPC. According to him at the highest, the case of the Applicant would fall within the purview of explanation 4 of Section 300 and would therefore

attract Section 304 of IPC.

6) Prima facie, we find merit in the said submission. The Applicant, has till date, undergone about 4 ½ years of incarceration, both pre-trial and post-conviction stage.

7) In view of the above, we are of the opinion that, during the pendency of the Appeal, the Applicant can be released on bail.

8) Hence the following Order:-

- i) During the pendency of Appeal preferred by the Applicant, the substantive sentence imposed by the learned Sessions Judge, Mumbai in Sessions Case No.169 of 2022 vide Judgment and Order dated 4th December, 2025, upon the Applicant is suspended and the Applicant shall be released on bail upon furnishing PR bond in the sum of Rs. 50,000/- with one or two local sureties in the like amount.
- ii) Upon his release from jail, the Applicant shall attend the Vakola Police Station, Mumbai on the first Monday of every month between 11.00 a.m. and 1.00 p.m. initially for a period of one year, and thereafter on every first Monday of every third calendar month, between 11.00 a.m. and 1.00 p.m. i.e. four times in a year, till the disposal of Appeal.

- iii) Any two consecutive defaults in complying with the above condition shall entail cancellation of Bail.
- 9) Application is allowed in the aforesaid terms.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)