



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO. 23 OF 2026

IN

CRIMINAL APPEAL NO.08 OF 2026

Rama s/o Ganga Kodape

.Vs.

State of Maharashtra, thr. PSO, Jimalgatta District Gadchiroli

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions Court's or Judge's orders.
 and Registrar's Orders.

Mrs S.P. Giripunje, Advocate for the appellant.
 Ms P.C. Bawankule, APP for the respondent/State.

CORAM : URMILA JOSHI PHALKE AND
NIVEDITA P. MEHTA, JJ.

DATED : 08.06.2026.

By this application, the appellant is seeking suspension of sentence and releasing him on bail.

2. Appellant was charged for the offence punishable under Section 302 of the Indian Penal Code along with 135 of Maharashtra Police Act, 1951 read with Section 4/25 of the Arms Act, 1959.

3. Heard learned counsel for the appellant, who submitted that the entire judgment of conviction is by placing reliance on the evidence of PW-1, who in fact is not an eyewitness. The appellant is the father of the deceased, due to a quarrel between both of them, the alleged incident has taken place. There was no intention to commit murder of the deceased. In fact, there is no direct evidence to show that it was the appellant who has committed the murder of

deceased. She invited our attention towards the evidence of PW-1 and submitted that considering the evidence of PW-1, which is not consistent and corroborated by other independent evidence, in view of that, and considering the appeal will take its own time for final disposal, the appellant be released on bail by suspending the sentence.

4. Learned APP strongly opposed the said contention and submitted that the evidence of PW-1 is corroborated by the circumstantial evidence. The weapon was recovered from the spot. It was forwarded to CA. The CA report is also placed on record. There were blood stains on the said weapon. Thus, circumstantial evidence corroborates the evidence of PW-1. Learned Trial Court has appreciated the evidence in proper perspective and there is no reason to interfere with the same. At this stage, re-appreciation of the evidence is not permissible and hence, the application deserves to be rejected.

5. After hearing both sides and on perusal of the impugned judgment as well as depositions, which are placed on record, the entire case of the prosecution is relied upon evidence of PW-1, who alleged to be an eyewitness. Admittedly, re-appreciation of the evidence is not permissible at this stage. What requires to be seen is whether the appellant is having any chance of success in the present appeal. After going through the impugned judgment, it reveals that not only the direct evidence of PW-1 but also circumstantial evidence, which is placed on record, shows

the involvement of the present appellant in the alleged offence. The principles which are laid down by the Hon'ble Apex Court in the case of ***Omprakash Sahni vs. Jai Shankar Chaudhary and another*** in ***Criminal Appeal No.1331-1332 of 2023***, decided on ***02.05.2023*** the Hon'ble Apex Court observed that the endeavour on the part of Court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the trial Court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the above said question is to be in the affirmative, as necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually take a very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the Court can arrive at a prima-facie satisfaction that the conviction may not be sustainable. The Appellate Court should not re-appreciate the evidence at the stage of Section 389 of the Cr.PC and try to pick up few lacunas or loopholes here or there in the case of prosecution. Such would not be a correct approach.

6. In the case in hand, after going through the entire evidence as well as the impugned judgment, there is

nothing on record to show that at this stage, this Court can come to the conclusion that there are chances of the acquittal in the present appeal. The direct evidence as well as the circumstantial evidence which pointed out by the learned APP sufficiently shows the involvement of the present appellant. The aspect of re-appreciation of the evidence requires to be considered at the time of final disposal of the appeal.

7. In view of that, the application for suspension of sentence is hereby rejected.

CRIMINAL APPEAL NO.08 OF 2026

1. Office to prepare the paper book.
2. Appeal be placed for final disposal after preparation of the paper book.

[NIVEDITA P. MEHTA, J]

[URMILA JOSHI PHALKE, J.]