



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.4318 OF 2024
IN
CRIMINAL APPEAL NO.939 OF 2024**

Nanasaheb s/o. Ghamaji Jadhav	..Applicant
Vs.	
State of Maharashtra	..Respondent

Mr.Chaitanya Deshpande, Advocate h/f. Mr.B.N.Magar, Advocate for applicant

Mr.S.D.Ghayal, Addl. Public Prosecutor for respondent

**CORAM : R.G.AVACHAT AND
NEERAJ P. DHOTE, JJ.
DATE : NOVEMBER 18, 2024**

ORDER :-

Heard learned counsel for the applicant and learned APP for the respondent - State.

2. This is an application for suspension of sentence imposed against the applicant/appellant by learned Addl. Sessions Judge, Vaijapur, Dist. Aurangabad, in Sessions Case No.148 of 2023, by the judgment and order dated 14.10.2024. Vide the impugned judgment and order, the applicant/appellant has been convicted for the offence punishable under Section 302 of Indian Penal Code and sentenced to suffer imprisonment for life with fine of Rs.3,000/-, in default, to undergo R.I. for six months.

3. It is the case of prosecution that the deceased was step-mother of the applicant/appellant. The step-brother of the applicant, i.e. the informant, was given half acre more land by his father, which did not went well with the applicant. He, therefore, used to quarrel with the informant and the deceased. On 29.06.2023, the applicant had quarreled with the deceased on that count. On 01.07.2023, the applicant assaulted the deceased with a sickle, which proved to be fatal. The incident was reported to the police. The deceased died due to *"hypovalemic shock due to hemorrhage due to multiple lacerated wound and large vessels injuries"*. The applicant/appellant fell in the well situated near the place of the incident.

4. During the course of investigation, the blood-stained sickle was seized at the instance of the applicant. The C.A. reports disclosed that the DNA of the blood found on the sickle and the DNA of the blood of the deceased matched. On the basis of the evidence on record, the trial court convicted the applicant/appellant.

5. It is submitted by learned counsel for the applicant/appellant that the material witnesses of the prosecution have not supported the case. The circumstantial evidence available on record is not sufficient to maintain the conviction and sentence.

He submits that since unknown persons were assaulting his mother, the applicant saw the same and he fell inside the well. He submits that the blood stains found on the clothes of the applicant were of male origin and therefore, not consistent to link with the crime. He submits that the evidence of the panch witness for disclosure statement and discovery shows that no statement was made by the applicant/appellant in his presence. He submits that the evidence of discovery is brought on record through the evidence of the Investigating Officer. There is nothing to prove the charge. He submits that the applicant is behind the bars for more than one and half years and there is no likelihood that the appeal would be heard in the near future. He, therefore, prayed that the application may be allowed.

6. Learned Addl. Public Prosecutor vehemently opposed the application. He submitted that though the material witnesses have not supported the case of prosecution, discovery of sickle is proved. He submits that after the incident, the applicant had hidden the sickle and thereafter, he jumped into the well, which shows his presence on the spot of the incident. He submits that learned trial court has rightly appreciated the evidence on record. He prays that the application may be rejected.

General Diary Details
ठाणे दैनंदिनी तपशील

आरोपी तपासकामी लॉकप बाहेर काढले बाबद नोंद

Sections (कलम)

General Diary Details
ठाणे दैनंदिनी तपशील

State (राज्य) : महाराष्ट्र District (जिल्हा) : औरंगाबाद ग्रामीण
PS (पोलीस ठाणे): वैजापूर
1. G.D. No. (ठाणे दैनंदिनी क्र.) : 022
2. G.D. Date & Time (ठा. दै. दिनांक आणि वेळ): 03/07/2023 11 :25 वाजता
3. G.D. Type (ठाणे दैनंदिनी प्रकार) : इतर
4. Entry of (officer) (करिता नोंद) (अधिकारी) : Sanjay Kashinath Ghuge/पोलिस हवालदार
5. Case Type (प्रकरणाचा प्रकार) :
6. G.D. Brief (ठाणे दैनंदिनी संक्षिप्त) :
यावेळी आम्ही पो.नि. लोहकरे नोंद करतो की यातील नोंद क्र.21 मधील आरोपी नामे नानासाहेब घमाजी जाधव याकडे गुन्ह्यांत वापरलेल्या हत्याराबाबत विचारपूस केली असता त्याने गुन्ह्यांत वारलेले हत्यार लोखंडी विळा हा त्याचे अगर सायगाव शिवार मधील शेत गट नं. 85 मधील त्यांचे शेतात असलेल्या एका लिंबांच्या झाडाच्या खाली ठेवलेल्या कपाशीच्या काड्यांच्या फासाच्या खाली लपवून ठेवलेला आहे मला घेवून चला मी तो काढून देतो असे निवेदन दिल्याने निवेदन पंचनामा करणे कामी शासकीय पंच मिळणेबाबत न.प. वैजापूर यांना शासकीय पंच मिळणेबाबत पत्र दिले आहे पंच हजर येताच पुढील योग्य ती कार्यवाही करत आहोत.
7. G.D. Subject (ठा. दै. चा. विषय) :
नोंद

8. Acts & Sections (अधिनियम आणि कलम) :

Sr. No. Acts (अधिकारी)	Sections (कलम)
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General Diary Details
ठाणे दैनंदिनी तपशील

State (राज्य) : महाराष्ट्र District (जिल्हा) : औरंगाबाद ग्रामीण
PS (पोलीस ठाणे): वैजापूर
1. G.D. No. (ठाणे दैनंदिनी क्र.) : 028
2. G.D. Date & Time (ठा. दै. दिनांक आणि वेळ): 03/07/2023 13 : 06 वाजता
3. G.D. Type (ठाणे दैनंदिनी प्रकार) : इतर
4. Entry of (officer) (करिता नोंद) (अधिकारी) : Sanjay Kashinath Ghuge/पोलिस हवालदार
5. Case Type (प्रकरणाचा प्रकार) :
6. G.D. Brief (ठाणे दैनंदिनी संक्षिप्त) :
यावेळी आम्ही पो.नि. लोहकरे नोंद करतो की यातील नोंद क्र.21 मधील आरोपी नामे नानासाहेब घमाजी जाधव यांने दोन पंचासमक्ष निवेदन दिले की, त्याने गुन्ह्यांत वारलेले हत्यार लोखंडी विळा हा त्यांचे अगर सायगाव शिवार मधील शेत गट नं. 85 मधील त्यांचे शेतात असलेल्या एका लिंबांच्या झाडाच्या खाली ठेवलेल्या कपाशीच्या काड्यांच्या फासाच्या खाली लपवून ठेवलेला आहे मला घेवून चला मी तो काढून देतो असे निवेदन दिल्याने निवेदन पंचनामा करणे कामी आम्ही स्वतःहा सोबत दोन पंच, आरोपी नानासाहेब घमाजी जाधव व पोलीस स्टॉप असे पो. स्टे. चे शासकीय वाहन क्रं. MH20GK1497 याने निवेदन पंचनामा करणे कामी आरोपी च्या सांगण्याप्रमाणे रवाना झालो करिता नोंद.
7. G.D. Subject (ठा. दै. चा. विषय) :
रवाना

8. Acts & Sections (अधिनियम आणि कलम) :

Sr. No. Acts (अधिकारी)	Sections (कलम)
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<u>General Diary Details</u> ठाणे दैनंदिनी तपशील	
State (राज्य) : महाराष्ट्र	District (जिल्हा) : औरंगाबाद ग्रामीण
P.S (पोलीस ठाणे): वैजापूर	
1. G.D. No. (ठाणे दैनंदिनी क्र.) : 030	
2. G.D. Date & Time (ठा. दै. दिनांक आणि वेळ): 03/07/2023 14 : 42 वाजता	
3. G.D. Type (ठाणे दैनंदिनी प्रकार) : आगमन	
4. Entry of (officer) (करिता नोंद) (अधिकारी) : Sanjay Mahadev Lohakare/पोलिस निरीक्षक	
5. Case Type (प्रकरणाचा प्रकार) :	
6. G.D. Brief (ठाणे दैनंदिनी संक्षिप्त) : यावेळी आम्ही पो.नि. लोहकरे नोंद करतो की, स्नेहा नोंद क्र.28 वेळ 13.06 मधील आम्ही पोलीस स्थान, दोन पंच व आरोपी नानासाहेब घमाजी जाधव यांच्यासह आरोपीने सांगितल्याप्रमाणे निवेदन पंचनामा करून आरोपीसह पो.स्टे. ला परत आलो. पंचनामा कारवाई दरम्यान आरोपीने सांगितल्याप्रमाणे गुन्ह्यात वापरलेले हत्यार लोखंडी विळा काढून दिल्याने तो पंचांसमक्ष जप्त करण्यात आला आहे. आरोपीची अंगझडती घेउन पुन्हा लॉकअप बंद करण्यात आले करिता नोंद.	
7. G.D. Subject (ठा. दै. चा. विषय) : निवेदन पंचनामा करून पो.स्टे. ला परत आले बाबत नोंद	

8. Acts & Sections (अधिनियम आणि कलम) :

Sr. No. Acts (अधिकारी)	Sections (कलम)
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8. The evidence on record including the above entries show that the voluntary statement was made by the applicant at 11.30 a.m., whereas, the panchas who were summoned for the same, reached the police station at 12.00 a.m. This makes it clear that the panchas reached afterwords. Therefore, the evidence of the discovery statement and recovery pursuant thereto, cannot be said to be concrete in nature. Admittedly, no blood stains of the deceased were found on the clothes of the applicant/appellant. Even if the blood stains on the sickle matched with the blood stains on petticoat of the deceased, it would not be sufficient to maintain the conviction against the applicant/appellant.

9. There is no possibility that the appeal would not be heard in the near future. Hence, the application is allowed in terms of the following order:-

- (i) The application is allowed.
- (ii) During pendency of the appeal, the substantive sentence of imprisonment imposed against the applicant/appellant by learned Addl. Sessions Judge, Vaijapur, Dist. Aurangabad, in Sessions Case No.148 of 2023, by judgment and order dated 14.10.2024, convicting and sentencing the applicant/appellant for the offence punishable under Section 302 of Indian Penal Code, to stand suspended.
- (iii) The applicant/appellant be released on bail, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

[NEERAJ P. DHOTE, J.]

[R.G. AVACHAT, J.]

KBP