

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

INTERIM APPLICATION NO.843 OF 2026

IN

APPEAL NO.1058 OF 2025

Yogesh Kailas Jadhav

... Applicant/Orig. Accused

V/s.

The State of Maharashtra

... Respondent

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Mr. Priyal G. Sarda a/w. Shubham S. Sane for the Applicant.
Smt. Madhavi H. Mhatre, APP for Respondent-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.
DATE : 28th April 2026**

PC.:-

- 1) This is an Application under Section 415 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for suspension of sentence and releasing the Applicant on bail during the pendency of Appeal.
- 2) Applicant is the original accused in Sessions Case No. 523 of 2022. The Additional Sessions Judge, Vadgaon Maval, District Pune by its Judgment and Order dated 26th August 2025 has convicted the Applicant under Sections 302, 323, 498A, 504 and 506 of the Indian Penal Code,

1860 ("IPC") and is sentenced to undergo imprisonment for life and to pay a fine.

3) Heard Mr. Sarda, learned Advocate appearing for the Applicant and Smt. Mhatre, learned APP for the State.

4) The deceased namely Smt. Changuna was the wife of the Applicant. Their marriage had taken place four years prior to the date of incident i.e. on 27th August, 2021. The Applicant used to beat her and subject her to cruelty as she did not beget a son from him.

5) On 27th August, 2021, in the morning, the deceased along with her six months old daughter, had been to her parents house for medical treatment of her daughter. Applicant fetched Changuna in the evening at about 7:00 p.m. On 28th August, 2021, at about 8:30 a.m., the father of the deceased, namely Mr. Shivaji Damu Thakar (PW No. 1) received a phone call from Hanumant Garade informing him that Changuna has died at her matrimonial home.

6) The Informant and her brother therefore rushed to the said place. They noticed that Changuna was lying on the floor in supine condition and blood was oozing from her mouth. Her tongue was stuck between her jaws. He also noticed scratches on her neck and throat. The Applicant was not present in the house. PW No. 1 therefore lodged the present crime.

7) Dr. Milind Sonawane (PW No. 4) conducted an autopsy on the dead body of Changuna. He found the following injuries and as mentioned in column No. 17 :

1. Horizontal abrasion over right side of neck, lateral aspect, 9 cm below right ear lobule, dark brownish, associated with contusion surrounding, pale bluish size: 2 cm X 0.5 cm,
2. Abrasion over anterior aspect of neck, 2 cm above sternal notch, brownish, associated with contusion surrounding it, size: 5 cm X 2 cm,
3. Crescentic abrasion over anterior aspect of neck, "C" shape, pale brownish, 2 cm below injury No.2, surrounding area is contused, size: 2 cm X 0.5 cm,
4. Multiple abrasion's over anterior aspect of neck, adjacent to injury No.3, dark brownish, surrounding area shows marked contusion, average size: 0.5 cm X 0.5 cm (three in numbers),
5. Multiple crescentic nail abrasion's over left side of neck, 5 cm below left ear lobule, below and backwards, three in numbers one below the other. Pale brownish, associated contusion surrounding it, mild swelling well marked, average size: 4 cm X 0.5 cm,
6. Small multiple abrasion's over face, over cheek, right

side, 5 cm below right eye, pale brownish, average size: 1 cm X 0.5 cm each,

7. Horizontal abrasion over posterior aspect of neck, back side to injury No.5, dark brownish, surrounding area shows mild contusion, size: 1 cm X 0.25 cm,

8. Multiple abrasion over breast, mid way, dark brownish, 6 cm below injury No.3, with two crescentic abrasions adjacent to it, pale brownish, average size: 0.5 cm X 0.25 cm,

9. Small contusion over head, over right temporal-occipital region, swelling present, size: 2 cm X 1 cm.

7.1) Injury Nos. 1 to 7 and its corresponding internal injuries were grievous in nature. Corresponding internal injuries to external injury Nos. 1 to 5 and 7, as noticed by him, are as under :

Extra-vasation of blood in sub-cutaneous tissue, over bilateral aspect of neck, from Rt.Sterno-mastoid muscle coat, hyoid cartilage region, thyroid cartilage sup & deep muscle coat uptill tracheal wall, more marked on rt.side, also haematoma well marked over rt. antero-lateral deeper neck structure. Hyoid bone intact, thyroid cartilage over rt., haematoma well marked.

8) He also noticed other internal injuries which is mentioned in column No. 20, which reads as under :

- a. Walls, ribs, cartilages - Haematoma over right 3rd to 4th inter- costal space, size: 6cm X 3cm rest all ribs intact,
- b. Pleura Right side pleura corresponding hamatma shows contusion,
- c. Larynx, trachea and bronchi Anterior-lateral tracheal wall huge haematoma, more on rt. side. On C/s: blood collected in lumen, mucosa congested and multiple small petechea seen, post pharyngeal & tracheal wall haematoma and extra- vasation well marked.
- d. Right lung Upper lobe laterally shows haematoma, size: 6 cm X 5 cm, middle lobe haematoma size: 4 cm X 5 cm, on C/s: severely congested, odematous.
- e. Left lung- Partial collapsed, no injury, on C/s : Severely congested, odematous.

9) PW No. 4 has opined that all the external injuries correspond to internal injuries and were caused by pressure applied by hand and nails over the anterior and lateral aspect of neck which lead to obstruction of the air passage causing asphyxia and death. He has stated that all the said injuries were ante-mortem in nature. He has opined that the probable cause of death was asphyxia due to compression of neck by throttling, alongwith minor lung injury caused by assault. He accordingly issued provisional death certificate (Exhibit 21) and the post-mortem report (Exhibit 20).

After conclusion of investigation, the police have filed charge-sheet and the Applicant has been convicted by the trial Court as noted above.

10) Mr. Sarda, learned Advocate for the Applicant strenuously argued that though the Applicant is convicted with the aid of Section 106 of the Evidence Act, 1872, the prosecution has not examined any witness to infer that anybody has seen him lastly in the company of the deceased. He submitted that there is no evidence to the effect that the Applicant was seen leaving his house when the deceased was present therein. He submitted that the Applicant hails from the lower economic strata of society and therefore he may be released on bail.

11) Mr. Sarda tried to impress upon this Court that the entire evidence on record must be reappreciated at the stage of application for bail. We are unable to accept the said insistence of Mr. Sarda. The reason is plain and simple. Recently, the Hon'ble Supreme Court in Omprakash Sahni Vs. Jai Shankar Chaudhry & Anr., reported in (2023) 6 SCC 123, has held that, the appellate Court should not reappreciate the evidence at the stage of Section 389 of Cr.P.C. and try to pick few lacunae or loopholes here and there in the prosecution's case. Such an approach would be incorrect.

12) Perusal of evidence on record, and in particular of PW-1, indicates that on the earlier day, the deceased along with her six months old daughter had been to PW No. 1's house for medical treatment of her daughter. In the evening, at about 7 p.m., the Applicant fetched her and

brought her back to their matrimonial home. In the morning of 28th August, 2021 at about 8:30 am., the P.W. No. 1 received a phone call from Hanumant Garade to inform him that Changuna has passed away. PW No. 1, noticed the afore-noted injuries on the said Changuna.

13) PW No. 3-Bajirao Arjun Dhekale, a neighbour, has deposed that there used to be quarrels amongst the deceased and the Applicant who used to beat her. On the date of incident, he heard the sound of a small baby crying in the house of the Applicant. Therefore, he along with his wife and other persons went there. He saw that the door of the house was bolted from outside. He opened the door and noticed that Changuna was lying on the floor and blood was oozing from her nose. The prosecution has propounded the motive behind the crime to be Changuna not begetting a son.

14) It is an admitted fact on record that the marriage between the Applicant and deceased had taken place four years prior to the date of incident. Changuna died due to unnatural death and therefore presumption under Section 113-A of the Evidence Act is squarely applicable to the case in hand.

15) Notably, the Applicant fetched Changuna on 27th August, 2021 at about 7:00 p.m. and Changuna was found dead in her matrimonial home before 8:30 am on 28th August, 2021. As noted earlier, she was all throughout in the company of the Applicant from 7:00 p.m. of 27th August,

2021. The Applicant has not examined any witness to support his case that on 28th August, 2021, at about 8:30 a.m. or prior thereto, he was not at their matrimonial home and was at some other place. The trial Court therefore has rightly applied the provision under section 106 of the Evidence Act. Perusal of medical evidence clearly indicates that the murder of Changuna was gruesome and she was mercilessly throttled.

16) In view of the above, we are not inclined to release the Applicant on bail during the pendency of Appeal. Application is accordingly rejected.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)