

Rohit Ghuge

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3224 OF 2026
IN
CRIMINAL APPEAL NO. 742 OF 2026

Firoz Idris Khan

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondent

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Mr. Taraq Sayed a/w Mr. Ali Jawad, Advocates for the Applicant.

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

CORAM: **BHARATI DANGRE &
ASHISH S CHAVAN, JJ.**

DATE : **01st OCTOBER 2026.**

PC.

1. The Applicant who is arraigned as Accused No. 1 in the proceedings before the Trial Court has approached this Court seeking suspension of sentence imposed on him vide order and judgment dated 28.07.2026 convicting him for offense punishable under Section 302, 498-A and 323 of the Indian Penal Code (“IPC”). The Applicant was sentenced to suffer imprisonment for life and to pay a fine of Rs. 10,000/-, and in default to suffer simple imprisonment for a period of one year for offence punishable u/s 302 of IPC. The Applicant was sentenced to suffer imprisonment for three years and to pay a fine of Rs.

5,000/- and in default to suffer simple imprisonment for a period of six months for offence punishable u/s 498-A of the IPC. The Applicant was sentenced to suffer imprisonment for one year and to pay a fine of Rs. 1,000/- and in default to suffer simple imprisonment for a period of one month for offence punishable u/s 323 of the IPC. All the sentences were ordered to run concurrently.

2. Heard, Mr. Sayed, for the Applicant and Ms. Shinde, APP for Respondent-State, perused the Application and Appeal.

3. The case of the prosecution in a nutshell is that the Applicant and the deceased were married in the year 2008. The first informant- PW No. 2, the father-in-law of the Applicant has alleged that the Applicant used to demand money from the first informant and ill treat his daughter (deceased). On 10.09.2017, the informant received a call from the Applicant's father that his daughter had fallen in the water tank accidentally and lost her life. The informant suspected that his daughter was murdered and therefore he approached the Police Station on 18.01.2018 and his complaint was recorded, based on which FIR No. 28/2018 came to be registered against the Applicant and his family members for offences punishable u/s 302, 498-A, 323, 504 and 506 r/w 34 of the IPC.

4. During the course of investigation, the dead body was forwarded

for post mortem, medical opinion shows the cause of death to be asphyxia due to ligature strangulation, in other words, that the deceased was strangled and murdered. The Applicant was arrested on 10.07.2018. Investigation was concluded, chargesheet was filed. Case was committed to the Sessions Court. The Applicant pleaded not guilty and claimed to be tried. The prosecution examined four witnesses. No defence witnesses were examined by the Applicant. The defence of the Applicant was that of total denial and false implication.

5. On behalf of the Applicant it was contended that although the death was homicidal in nature, there was nothing to connect the Applicant with the commission of the offence as alleged by the prosecution. It was urged that the evidence of PW No. 1, the panch witness is crucial since he is the only independent witness in the case. PW No. 1 has deposed that on the day of the incident he had seen the deceased going to the bathroom while going for morning Namaz. After prayers, he came back to his house and was resting when he received a call from the Applicant at about 7:15 am informing him that the deceased i.e. wife of the Applicant had gone for shopping and she had latched the door of their house from outside. The Applicant asked PW No. 1 to open the door from outside. At that time, he saw the Applicant along with his three children in the house. He further deposes that 10 minutes later, he heard shouts. People from his lane had gathered there.

He saw the deceased lying in the water tank and that there was an odhani around her neck. Placing reliance on this deposition of PW No. 1, Ld. Counsel for the Applicant submits that there is no eye witness to this incident. The only circumstantial evidence against the Applicant is that body of his wife was found in the water tank in the morning hours on the date of the incident. The cause of death was due to strangulation and her odhani was found wrapped around her neck. However, the evidence of PW No. 1 clearly demonstrates that the Applicant was inside the house and most importantly the door of the house was latched from outside. It was opened by PW No. 1 at around 7:15 am when the Applicant was found inside the house. Almost immediately, the dead body of the deceased was found in the water tank. It was urged that the evidence of PW No. 1 demonstrates that it was improbable that the Applicant could have committed the offence and in view thereof it was prayed that the sentence of the Applicant deserves to be suspended pending Appeal and the Applicant deserves to be admitted to bail.

6. Learned APP Ms. Shinde, countered the aforesaid submissions by arguing that the death was proved to be unnatural and homicidal. There was a ligature mark on the neck of the deceased and her odhani was found wrapped around her neck. PW No. 2 – the father-in-law of the Applicant has alleged that the Applicant used to ill treat the deceased and demand money from her family. This, according to the Ld. APP

established the motive behind the commission of the offence. Considering the gravity of the offence, she prayed for rejection of the Application.

7. The prosecution has examined four witnesses to prove their case. PW No. 1 is the only independent witness who happens to be the next door neighbour of the Applicant. It is not in dispute that the Applicant along with his wife (the deceased) and their children used to reside together. The medical evidence establishes that the death is unnatural and likely to have been caused due to strangulation by the odhani which was found wrapped around the neck of the deceased. The father in law of the Applicant, PW No. 2 does allege that there were monetary demands made by the Applicant and there were instances of ill treatment to the deceased. However, the cross examination reveals that there were some payments made by the Applicant to PW No.2 which were denied by him. The evidence of PW No.1 emerges as the most crucial evidence in the narrative of the prosecution since he is the only independent witness in the case. PW No. 1 has deposed that on the day of the incident he had seen the deceased going to the bathroom while going for morning prayers. After prayers, he came back to his house and was resting when he received a call from the Applicant at about 7:15 am informing him that the deceased i.e. his wife had gone for shopping and she had latched the door of their house from outside. The Applicant requested PW No. 1

to open the door from outside. When he opened the door, PW No. 1 saw the Applicant along with his three children in the house. Immediately thereafter, he heard shouts. People from his lane had gathered there. He saw the deceased lying in the water tank and that there was an odhani around her neck. PW No. 1 is also the spot panch who has conducted the spot panchanama. He has deposed that the houses in the neighborhood had washroom and water tank adjacent to each other and outside the house. These water tanks were filled with water which was used for various purposes. He has deposed that there is only one door permitting ingress and egress out of the house of the Applicant and that door has no lock from the inside. There is only a latch outside the door. The evidence of PW No. 1, *prima facie* demonstrates that the door of the house of the Applicant was locked from the outside and it was only opened at 7:15 am by PW No. 1. The dead body was noticed in the water tank immediately thereafter. PW No. 1, also deposes that he has never seen any quarrel between the Applicant and the deceased and that their family was a happy family. In fact, he has admitted that it was PW No. 2 who demanded money from the father of the Applicant for not implicating the Applicant. One more facet of the case is the delay in lodging the FIR by the PW No. 2. Although the incident took place on 11.09.2017, the report was lodged on 18.01.2018. This delay of around 4 months has not been explained by the informant. The investigating officer has attempted

to explain the delay by saying that initially accidental death was registered and the ADR was filed. However, subsequently, the Police issued a letter to PW No. 2, pursuant to which he filed the report. No doubt, the appreciation of evidence is a triable issue but *prima facie* the evidence of PW No. 1 creates a reasonable doubt about the complicity of the Applicant in the commission of the offence alleged.

8. In the wake of the aforesaid discussion, this is a fit case for suspension of sentence and grant of bail pending the Appeal . Hence, the following order.

:ORDER:

- i) The sentence imposed by the learned Additional Sessions Judge, Nashik vide his judgment and order dated 28.07.2026, in Sessions Case No. 100 of 2019 is suspended during the pendency of the Appeal.
- ii) The Applicant be released on bail on executing PR bond in the sum of Rs.10,000/- (Ten Thousand only) with one local surety in the like amount to the satisfaction of the learned Trial Court.
- iii) The Applicant shall not leave the State of Maharashtra without prior permission of this Court.

- iv) The Applicant shall inform the Trial Court of his contact details and residential address alongwith changes therein, if any.
- v) The Applicant shall attend the Trial Court on such of the dates as directed by it to mark his presence.
- vi) Infraction of any of the aforesaid conditions would entitle the State to move for cancellation of bail.

Interim Application No. 3224 of 2026 is allowed in the aforesaid terms.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.