

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

**Criminal Application No.7088 of 2014
In
Criminal Appeal No.40 of 2015**

Saraswati w/o Ganpat Landge. .. **Applicant.**

Versus

The State of Maharashtra. .. **Respondent.**

Shri. Sudarshan J. Salunke, Advocate, for applicant.
Shri. V.D. Godbharle, Additional Public Prosecutor, for
respondent.

**CORAM: T.V. NALAWADE
INDIRA K. JAIN, JJ.**

DATE : 29th APRIL 2015

ORDER:

1) The application is filed for suspension of substantive sentence and for grant of bail. Heard both the sides.

2) The appellant is convicted and sentenced in Sessions Case No.1/2014 which is decided by learned Additional Sessions Judge Ambajogai. Charge was framed for offence of murder of her husband and she is convicted and sentenced for offence of murder.

3) The incident in question took place in the house of the appellant and the deceased on the night between 9-10-2013 and 10-10-2013. On that night only the deceased and the appellant were present in the house and their son was sleeping in the house of his sister Satyashila. In the early hours of 10-10-2013 the appellant approached police and informed to police that she had committed murder of her husband namely Ganpat. Due to this information the police went to the spot and then the investigation was done. On 10-10-2013 son of the appellant gave report to police and he informed that his mother had confessed that she had committed murder.

4) The learned counsel for the applicant has placed reliance on two cases reported as (1) **2002 (2) B Cr C 808 (Dinesh v. State of Haryana)**; (2) **AIR 2013 SC 2878 (Joydeb Patra v. State of W.B.)**. The facts were totally different.

5) The trial Court has considered circumstances like :

(i) the deceased and accused were living in the same house;

- (ii) the incident took place in the house;
- (iii) the incident took place in night time;
- (iv) murder was committed inside of th house;
- (v) weapon used were recovered from the house and there were other articles like pieces of bangles, clothes of the appellant and they were having blood stains. The blood group of the deceased and the blood group found on those articles was the same.

6) Though one more circumstance is not mentioned, the investigating officer has given evidence that it is the applicant who had approached police to give the report. This circumstance can be considered in view of section 8 of the Evidence Act. Thus the provisions of sections 8, 106 read with 114 of the Evidence Act can be used against the applicant. The evidence given in the trial Court is more than sufficient to prove the offence. It appears that no bail was granted during trial. This Court holds that it is not a fit case for suspending the substantive sentence and granting bail. In the result the application is rejected.

Sd/-
(INDIRA K. JAIN, J.)

Sd/-
(T.V. NALAWADE, J.)

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