

JPP

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

**CRIMINAL APPLICATION NO. 399 OF 2015
IN
CRIMINAL APPEAL NO. 289 OF 2015**

Keda Pandit Bachhav.

... Applicant.

V/s.

The State of Maharashtra.

... Respondent.

Mrs. Aisha Mohammed Zubair Ansari for the Applicant.
Smt. V. R. Bhosale, APP for State.

**CORAM : P.V. HARDAS &
Dr. SHALINI PHANSALKAR-JOSHI, JJ.**

APRIL 17, 2015.

P.C. :-

By this Application the Applicant seeks suspension of the substantive sentence of imprisonment and his enlargement on bail, pending the decision of the Appeal.

2. The Applicant stands convicted for an offence punishable under Section 302 of the Indian Penal Code as the Applicant who is found to have committed murder of his wife Kedabai on 16.10.2012. The medical evidence of the Medical Officer who had conducted the postmortem indicates that the deceased had been killed some time past midnight in the

house which was being occupied by the deceased and the Appellant and their children. At the behest of the Applicant the wooden log which was said to be the weapon of assault had been recovered. The Applicant could not prove his defence of alibi which he had raised before the Trial Court. The Trial Court thus finding that an offence had been proved against the Applicant convicted and sentenced him as afore-stated.

3. We have heard the learned Counsel for the Applicant and the learned APP. The learned Counsel for the Applicant has urged before us that the discovery of the wooden log at the behest of the accused under Section 27 of the Indian Evidence Act is a discovery which is tainted in nature and appears to have been falsely foisted on the Applicant. According to the learned Counsel for the Applicant, the Medical Officer has admitted to have seen the wooden log on 16th i.e. much prior to its alleged seizure. It is also alleged before us that at the behest of the other relatives, the allegations have been foisted on the Applicant. The learned APP has supported the findings arrived at by the Trial Court.

4. In the light of the overwhelming evidence which we have adverted to above, in our opinion, this is not a fit case for suspending the substantive sentence of imprisonment and releasing the Applicant on bail. The submissions which have been advanced before us by the learned Counsel for the

Applicant pertain to re-appreciation of evidence which cannot be done at this stage. Suffice it to state that there is strong evidence against the Applicant and thus, we are not inclined to release the Applicant on bail though the Applicant was on bail during trial.

5. Application is thus dismissed.

(DR.SHALINI PHANSALKAR-JOSHI, J.) (P.V. HARDAS, J.)