

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

CRIMINAL APPLICATION NO.1340 OF 2019

IN

CRIMINAL APPEAL NO. 1097 OF 2019

Jamaluddin Mohammad Shaban Ansari

.....Applicant/
Appellant

versus

The State of Maharashtra

.....Respondent

Mr. Santosh Bhamre, advocate for the applicant/appellant.

Mr. J. P. Yagnik, APP for the State.

**CORAM : RANJIT MORE &
SURENDRA P. TAVADE, JJ.**

DATE : 11th DECEMBER, 2019.

P. C. :

1. The applicant is convicted for offence punishable under Section 302 of the Indian Penal Code, 1860, and sentenced to suffer rigorous imprisonment for life.

2. The above said appeal is already admitted. The present application is filed for releasing the applicant on bail during the pendency of the appeal. The applicant was charged for killing his own one year old son. The prosecution, in order to prove the charge, adduced direct evidence in the form of PW-1, mother of the child and wife of the applicant and PW-2- elder son of the applicant. PW-1 stated that the applicant picked his one year old son and took him in another room, shut the door

of the said room and beat the child mercilessly due to which the one year old child succumbed to death. PW-2 is a minor seven year old witness. Having examined the said witnesses, the learned Judge came to the conclusion that the seven year old child witness is competent to depose. PW-2 has also stated that the applicant beat the deceased child mercilessly.

3. The learned counsel on behalf of the appellant submitted that PW-1 admitted that she had taken her son to Dr. Anis, Dr. Rehahan Hawai, Dr. Aslam and Dr.Dhange by wrapping him in towel. He further invited our attention to the admission of PW-1 that she disclosed Dr. Anis that there was foam of soap on the body of her son and her son fell down while bathing. However, Dr. Anis is not examined in this case. Prosecution has examined Dr. Rajendra Mallikarjun Gavi who is working as a Pediatrician. PW-1 had taken her son to Dr. Rajendra Gavi. She had disclosed the Doctor that her son was beaten by his father. The said disclosure is proved by the prosecution. The prosecution has also relied upon the evidence of the Medical Officer Dr. Dilip Vishwanath Chavhan who performed post-mortem on the dead body of the deceased. He deposed that the deceased had three antermortem injuries including fracture on skull. It was suggested to Dr. Dilip Chavhan that the skull injury would be possible by fall from bed but the said suggestion is categorically refuted by the Medical Officer. So it can be said that the

prosecution has established that the death of the deceased was due to head injury. Said injury is not at all explained by the accused. Therefore, admissions given by the PW-1 in the cross examination has no significance. Therefore, those can be safely ignored.

4. PW-1 and PW-2 are eye witnesses. At this stage, we find that the learned Trial Judge rightly relied upon the evidence produced before him and convicted the accused. We are, therefore, not inclined to entertain the application. The application is, accordingly, dismissed.

[SURENDRA P. TAVADE, J.]

[RANJIT MORE, J.]