

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

**CRIMINAL APPLICATION NO.543 OF 2021
IN CRIMINAL APPEAL NO.816 OF 2019**

**SARJERAO S/O. VITHOBA HARDE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Shri Narayan B. Narwade
APP for Respondent - State : Shri R. V. Dasalkar
...

**CORAM : RAVINDRA V. GHUGE AND
B. U. DEBADWAR, JJ.**

DATE : 08TH MARCH, 2021

PER COURT :

1. The applicant herein has preferred this second application praying for suspension of the substantive sentence and for being enlarged on bail. He has been convicted by the judgment dated 14-08-2019, delivered by the learned trial Court in Sessions Case No.292 of 2013, vide which he has been held guilty of committing an offence of murdering his daughter-in-law and is, therefore, sentenced to suffer imprisonment for life. He has also been sentenced to suffer rigorous imprisonment for two years under Section 201 of the Indian Penal Code. Both the sentences are to run concurrently.

2. The learned advocate for the applicant fairly submits that both the convicts, who are father and son duo, had moved

Criminal Application No.2753 of 2019 for seeking suspension of substantive sentence and for being enlarged on bail. Vide order dated 25-11-2019, the said application was rejected. Both approached the Hon'ble Apex Court and by order dated 24-02-2020, the Special Leave Petition, filed by these two convicts, has been dismissed. The Hon'ble Apex Court, however, granted liberty to the convicts to renew their application for substantive sentence after one year.

3. The learned advocate for the applicant, who is a 70 year old convict, frankly submits that though there are no change in circumstances, this application has been filed as the applicant is 70 years of age and is already behind bars since 2013. He was refused bail as an under trial and the time spent by him in jail as an under trial, has been set off under Section 433-A of the Code of Criminal Procedure, 1973.

4. The learned advocate has strenuously canvassed this application and has drawn our attention to the appeal paper-book. We have perused the impugned judgment threadbare. We have also perused the testimonies of the witnesses examined by the prosecution.

5. It is quite obvious from the evidence available before the trial Court, which has been analysed in the impugned judgment,

that the present applicant, who is father of accused No.1, has been held guilty of committing the crime of murdering the daughter-in-law. On the date of the incident, 6th July, 2013, at around 05:15 p.m. accused No.1 Govind informed his parents-in-law that his wife was missing since 04:00 a.m. and they are unable to trace her. The relatives of his wife, from the parents side, immediately proceeded to the village where the deceased was residing with her husband in her marital home. They found blood stains in the front courtyard (*Varanda*) of the marital home of the deceased and her clothes like petticoat, etc., found at that place, were also having blood stains. Naturally, on account of serious suspicion, the father of the deceased requested the villagers to take search of the missing daughter and ultimately, within a few hours, the dead body of the deceased was found in a well. An insecticide viz. Endosulfan of about half liter quantity was found near the well in which the dead body of the deceased was located.

6. It has come in the evidence before the trial Court that there were, in all four family members, inclusive of the deceased, residing together. The applicant herein and the husband of the deceased, have been convicted for the murder of the deceased. The mother-in-law of the deceased, accused No.3 was acquitted as the trial Court did not find that the prosecution has proved the

offence against her. After considering the entire evidence before the trial Court, it was concluded that the prosecution has established the following circumstances :

- a) There were blood stains on the floor of the front room, the middle room and the *Varanda*.
- b) The C.A. report established that the blood (stains) was of human origin.
- c) The clothes of the present applicant and the husband Govind were seized, as they were found to have blood stains. The C.A. report also indicates that those blood stains were human blood.
- d) The wooden log having blood stains was seized from the room which is adjacent to the house of the accused, at the instance of the husband Govind. The blood stains on the said wooden log were also found to be of human origin.
- e) It is not the case of the accused that the blood was planted by the prosecution.
- f) A deep head injury was found on the occipital region which was ante-mortem.
- g) The cause of death was mentioned by the Autopsy Surgeon as being 'due to Endosulfan poisoning'. The said

doctor ruled out that the deceased may have died due to drowning.

- h) The blood stains found in the three parts of the house, on the clothes of the deceased, on the clothes of the accused, on the injury on the occipital region of the head of the deceased and on the wooden log, as well as, the death due to consumption of Endosulfan poison, would establish that the two accused had earlier clobbered the deceased and the death occurred due to poisoning.
- i) The bottle of poison was systematically placed on the parapet wall of the well to create a make believe picture that the deceased consumed poison, kept the poison bottle on the edge of the well and then jumped inside the well. If that would have been so, the death would not have occurred due to consumption of poison and would have occurred due to drowning. Consumption of poison and jumping into the well simultaneously would not allow the effect of poison, so as to kill the deceased instantly before she could jump into the well.
- j) It was, therefore, circumstantially proved that the body of the victim was dragged from her house upto the well and dumped into the well, which also establishes that the

deceased was initially beaten up and then administered poison. She was thrown into the well to create a scene of suicide.

7. Considering the barbaric way in which the deceased was made to face death, does not convince us a bit to suspend the substantive sentence, merely because the applicant is a 70 years old man. In view of the above, this application, being devoid of merit, is therefore, rejected.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

SVH