

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 CRIMINAL APPLICATION NO.2294 OF 2020
IN APPEAL/653/2020 WITH APPEAL/653/2020

PRADEEP MANIK KANSE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S.B. Bhapkar
APP for Respondent-State: Mr. R.V. Dasalkar
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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 12th OCTOBER, 2021**

PER COURT:-

1. Pending the criminal appeal No. 653 of 2020 preferred against the judgment and order of conviction passed by the Sessions Judge, Ahmednagar, dated 27.10.2020 in Sessions case No. 279 of 2016 convicting thereby the applicant-accused under section 302 of I.P.C. and sentencing him to suffer imprisonment for life and also convicting under section 12 of the Protection of Children from Sexual Offences Act, 2012, however, no separate sentence is awarded, the applicant accused has preferred this application for suspension of substantive part of sentence and also for bail.

2. The prosecution story in brief is as follow:-

The applicant accused fallen in love with deceased Mohini, however, it was one sided love. Deceased Mohini was below 18

years of age. The applicant accused was insisting deceased Mohini to marry him and she was subjected to harassment for the same. Even the applicant accused given life threats to the family members of deceased Mohini in the event if the deceased Mohini performs marriage with any other person. However, the parents of deceased Mohini settled her marriage elsewhere for which she had consented. The applicant accused had tried to convince her to marry him, however deceased Mohini had refused to marry with him. Thus, on 27.5.2016 the applicant accused committed murder of Mohini by means of sickle.

3. Learned counsel for the applicant submits that the prosecution case entirely rests upon circumstantial evidence and there is no direct evidence in this case. Learned counsel submits that there is no chain of circumstantial evidence and the circumstances brought on record are having no definite tendency to point out the guilt of the accused. Learned counsel submits that P.W.9, 10 and 13 Nanda Arun Ghodke, Ravindra Chaburao Bhambal and Vaishali Pradip Athare, respectively, have not identified the applicant accused before the court nor the investigating officer has conducted any identification parade during the course of investigation. Learned counsel submits that the evidence of P.W.6, 7 and 8, Husen Mohisbhai Marchant, Mustafa Samsher Khan and Sahil Chand Muniyar, respectively, is not trustworthy. Learned counsel submits that the applicant is in jail since 27.5.2016. He is the only son to his

old parents. The applicant is young person having no antecedents. The applicant may be released on bail.

4. Learned A.P.P. submits that though there is no direct evidence in this case, however, the prosecution has succeeded in establishing the chain of circumstantial evidence against the applicant. The trial court has summarized the same in para 17 of the judgment. The prosecution has proved that deceased Mohini met with homicidal death on 27.5.2016 on the terrace at about 11.30 a.m. As per the post mortem report, there are 17 external injuries and out of those injuries, most of them are incised wounds. In the opinion of the doctor, who has conducted post mortem examination, the cause of death was due to hemorrhagic shock due to multiple injuries. The applicant accused himself went to the police station with a blood stained sickle and blood stained clothes on his person. The muddemal article sickle and muddemal blood stained clothes on the person of applicant accused came to be seized under panchnama and C.A. report is also positive to the extent indicating human blood on it. Learned A.P.P. submits that the applicant accused has committed murder of deceased Mohini in a broad day light. The prosecution has proved the case beyond reasonable doubt. The application is liable to be rejected.

5. Though we find that the prosecution case entirely rests upon circumstantial evidence, however, considering homicidal death and

multiple external injuries in the form of incised wounds on the person of deceased Mohini and further the applicant accused himself went to concerned police station alongwith blood stained sickle and clothes, we are not inclined to release the applicant accused on bail. There is enough evidence about the motive. The circumstances brought on record are having definite tendency to point out the guilt of the accused. There is evidence that the applicant accused has purchased the sickle and got it sharpened soon before the incident. There is detection of blood of deceased Mohini on sickle produced by the applicant accused in the police station. In view of the same, we are proceed to pass the following order:-

O R D E R

Application is hereby rejected.

6. Since the applicant accused is in jail since 2016, as pointed out by learned counsel for the applicant, the applicant is at liberty to file an application in the month of January, 2022, for expeditious hearing of appeal.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)

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