

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1088 OF 2019
IN
CRIMINAL APPEAL NO. 504 OF 2019

SNEHA
NITIN
CHAVAN

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Gangadatta Leeladhar Tiwari ..Applicant

V/s.

The State of Maharashtra ..Respondent

Mr. Satyavrat Joshi for the Applicant.

Mrs. M.M. Deshmukh, APP for the Respondent/State.

CORAM : NITIN JAMDAR AND
C.V. BHADANG, JJ.

DATE : 03 AUGUST 2021

P.C.

. Heard the learned counsel for the Applicant and the learned APP.

2. By the Judgment and Order passed by the learned Sessions Judge on 12 February 2019, the Applicant is convicted under Section 302 of the Indian Penal Code, and is sentenced to undergo imprisonment for life

3. The case of the prosecution is that the Applicant has strangled his wife Rashmi by means of a rope. The evidence

led by the prosecution was of PW-1 the Police Sub-Inspector, who had arrived at spot after the information was received, PW-2 Panch witness to Spot Panchnama at Exh.23 and 23A, PW-4 another panch to the Recovery Panchnama, PW-6 is the father of the deceased i.e. father-in-law of the Applicant, PW-9 K.V. Radhkrishnan was working as Assistant Professor in Forensic Medicine. The defence of the Applicant was that deceased Rashmi had committed suicide by hanging herself.

4. There are no eyewitnesses. PW-9 Radhakrishnan admitted that he had not specifically mentioned in the report that death was due to strangulation though he also admitted that in various other reports, he had mentioned cause of 'asphyxia' specifically as by way of strangulation. He also accepted the proposition that for strangulation, there has to be complete and horizontal encircled ligature mark. The postmortem report mentions total circumference of neck is 36 cms. and the extent of ligature mark is 20 cms., thus not complete. Both PW-1 the Investigating Officer and PW-5 Dr. Amol Rajore, who attended the deceased have stated that the door of the bedroom was broken which *prima facie* gives credence to the defence of the Applicant that the deceased committed suicide by locking door and that he had broken open the door. The Applicant was not absconding, in fact he went to contact the Doctor immediately. The incident occurred on 20 February 2012 and the Applicant was arrested on 21 February 2012. The learned APP submitted that the

Applicant had scratch marks on his hand which shows sign of resistance by the deceased indicating strangulation. PW-9 had stated that nail clippings of the deceased were collected. However, in the statement of the Applicant under Section 313 of Cr.P.C., there is no mention of report of the nail clippings.

5. Considering the facets *prima facie* and the fact that Applicant was granted bail during the trial on 10 August 2012 till he surrendered after the conviction and the Applicant has small child to look after and that the Appeal is not likely to come up for hearing in immediate future, the case for grant of bail is made out.

6. Hence, the following order:

i) The substantive sentence awarded to the Applicant is suspended, pending disposal of Appeal.

ii) The Applicant be released on bail on furnishing a PR Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.

iii) The application is accordingly disposed of.

(C.V. BHADANG, J.)

(NITIN JAMDAR, J.)