

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

CRIMINAL APPLICATION NO.1662 OF 2022
IN
CRIMINAL APPEAL NO.368 OF 2022

SURESH BHAGWANRAO CHAVALÉ
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. A V Sakolkar h/f Sakolkar
V.G.

APP for Respondent : Mr. P K Lakhotiya

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CORAM: SARANG V. KOTWAL & BHARAT P. DESHPANDE, JJ.
Dated: June 29, 2022

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PER COURT :-

1. The applicant was convicted for commission of offence punishable under section 302 of the Indian Penal Code and was sentenced to suffer imprisonment for life and to pay fine of Rs.15,000/-. The order was passed on 21.3.2022 by the Additional Sessions Judge-2, Udgir in Sessions Case no.56 of 2019. The applicant was not on bail during the trial. He was arrested on 11.3.2019. Since then, he is in custody. Prosecution case is that, on 10.3.2019 at about 3.00 am in the early hours the Applicant knocked the doors of PW 4, who was his landlord. The Applicant informed that
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applicant's wife Manisha had become unconscious. Applicant sought help of landlord and others. Manisha was taken to different doctors but, she was declared dead. Prosecution case is that, the applicant was suspecting her character and, therefore, he committed her murder by strangulation. Prosecution relied on the evidence of PW 1-Vishwanath, who is her father of the deceased. He has spoken about suspicion entertained by the applicant against Manisha. He has also deposed about physical harassment caused by the applicant to deceased Manisha. His evidence is supported by PW 6 Suryakant Swami, who was PW 1's friend. PW-4 Bharat Patil was the landlord as mentioned earlier. He has deposed about the events after the applicant approached him. Cause of death as mentioned in the postmortem notes was 'Asphyxia due to Strangulation'. There was one ligature mark in the form of pressure abrasion over anterior aspect of neck at the level of thyroid cartilage of the deceased.

2. Learned counsel for the applicant submitted that, there was no eye witness to the incident. Motive was not proved because landlord has not spoken about it. Specific instances about harassment and ill-treatment were not mentioned. Other tenants in the same building were not examined. Learned counsel for the applicant submitted that, the prosecution case initially was that deceased was administered sedative pills, however, no such sedative pills were found in the house were even not found either in viscera report or from any other circumstance during examination of the dead body. Recovery of wire allegedly used for murder, was doubtful. He emphasized the fact that there were no signs of resistance on the dead body of Manisha. He, therefore, submitted that it is a good case, where the applicant is likely to be acquitted.

3. Learned A.P.P. as well as learned counsel representing the first informant submitted that, Manisha had died at early hours when the applicant was present in the house. It is a highly incriminating

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circumstance and it was for the applicant to have explained the situation as the burden was on him under section 106 of the Evidence Act.

4. We have considered these submissions. As rightly submitted by the learned APP, it was necessary for the applicant to explain suspicious circumstances in which the deceased had died. Record shows that Manisha had died because of Asphyxia due to strangulation. This is unnatural death and only the applicant could have explained it. Evidence of father of the deceased sufficiently proves that the applicant entertained suspicion in his mind against the deceased. Therefore, at this stage, there is sufficient material against the applicant. Prosecution case about administration of sedative pills is different because cause of death is given as Asphyxia due to strangulation.

5. All these questions will have to be decided at the final hearing stage. There is no case for grant of bail pending appeal is made. Hence, the following order.

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ORDER

Application is rejected.

(BHARAT P. DESHPANDE, J.) (SARANG V. KOTWAL, J.)

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