

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

**CRIMINAL APPLICATION NO. 2300 OF 2021
IN
CRIMINAL APPEAL NO. 191 OF 2021**

Dnyaneshwar Vyankatrao Katekor ..APPLICANT

VERSUS

State of Maharashtra ..RESPONDENT

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Ms. M.S. Mhase, Advocate for applicant appointed as amicus curiae
Mr. R.V. Dasalkar, A.P.P. for respondent - State

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**CORAM : R.G. AVACHAT AND
R.M. JOSHI, JJ
RESERVED ON : 25th NOVEMBER, 2022
PRONOUNCED ON : 05th DECEMBER, 2022**

ORDER (PER : R.G. AVACHAT, J.) :

1. This is an application for suspension of execution substantive sentence of imprisonment passed by the learned Sessions Judge, Latur in Sessions Case No. 50 of 2019 vide judgment and order dated 15th December, 2020. The applicant has been convicted for the offence punishable under Section 302 of the Indian Penal Code (I.P.C.) and, therefore, sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- with default stipulation.

2. Heard. Issue notice to the respondent. Learned A.P.P. waives service of notice for respondent – State.

3. It was the case of prosecution that the applicant committed murder of his sister-in-law (sister of his wife) on account suspecting her infidelity. The case is based on circumstantial evidence. Learned counsel for the applicant would, therefore, submit that chain of circumstances is not complete, first to exclude possibility of involvement of someone else than the present applicant. According to her, the only circumstance against the applicant is that clothes on his person, at the relevant time, are found to have blood stains of the blood group of the deceased. According to her, it was the case of the applicant that one unknown person was assaulting the deceased. He (applicant) intervened to save her. In that process the applicant himself suffered injuries and that is why the clothes on his person get stained with blood of the deceased.

4. Learned A.P.P. opposed grant of application.

5. Considered the submissions advanced. Perused the evidence relied on. The wife of the applicant has given evidence against him. She has stated that the applicant did not like behaviour of the deceased. He had, therefore, a quarrel with her and the deceased as well on the previous day. The applicant had threatened to kill both of them. She (wife of the applicant), therefore, went to stay at her parent's house. Admittedly, the deceased was residing in the neighborhood of the applicant's residence. As

per the case of prosecution, the applicant, after committing murder of his sister-in-law, himself surrendered before the police and confessed to the crime.

6. True, whatever has been stated by the applicant at the police station would be inadmissible in evidence. The clothes on his person at the relevant time came to be seized immediately. Admittedly, the clothes have blood stains of the blood group of the deceased. The applicant had motive to commit murder of his sister-in-law, as has been stated by his own wife. There is an extra-judicial confession made by the applicant to the medical officer (P.W.5), who had examined him. The medical officer has specifically stated that the applicant had told him to have suffered injuries while assaulting another. Admittedly, on the given day, the applicant's sister-in-law met with homicidal death. As such, it is not a fit case to grant the applicant suspension of execution of substantive sentence of imprisonment.

7. In view of above, criminal application stands rejected. Hearing of the appeal is expedited.

(R.M. JOSHI, J.)

SSD

(R.G. AVACHAT, J.)