

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

**CRIMINAL APPLICATION NO. 3493 OF 2019 IN
CRIMINAL APPEAL NO. 31 OF 2022**

Rameshwar s/o Bhagwan Sonawane

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S. G. Bobade, advocate for the applicant.

Mr. S. S. Dande, APP for the Respondent.

**CORAM : V.K.JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 22nd February, 2022.

PC :

1 Heard Mr. Bobade, learned Counsel for the applicant
and Mr. Dande, learned A. P. P. for the Respondent-State.

2 The applicant i.e. original accused in Sessions Case
No. 148/2015 has filed this application for suspension of his
substantive sentence of imprisonment awarded by the learned
Additional Sessions Judge, Aurangabad, in the aforesaid case vide
judgment and order dated 05.12.2018, during pendency of
Criminal Appeal No. 31 of 2022.

3 Learned Counsel for the applicant-accused submits that the learned trial Court has convicted the applicant-accused merely on the basis of suspicion and there is no direct evidence against him. He further pointed out that the learned trial Court has relied too much on the evidence of P. W. 3 i.e. minor son of deceased Rohini, who had, in fact, categorically stated that on the day of the incident i.e. on 14.04.2015, there was no quarrel between the applicant and deceased Rohini after 1.00 p.m., except the quarrel took place in the morning. Learned Counsel for the applicant submits that the applicant, in the absence of any direct evidence against him, needs to be released on bail after suspension of his substantive sentence of imprisonment, during the pendency of this appeal.

4 On the contrary, learned A. P. P. has strongly opposed the application on the ground that there is strong circumstantial evidence against the present applicant as regards commission of murder of deceased Rohini. Further, the trial Court has categorically mentioned the circumstances against the applicant which indicate his guilt, such as motive to commit murder of the deceased, recovery of incriminating articles from the spot of the

incident, last seen together theory and death of deceased being found homicidal. As such, learned A. P. P. prays for dismissal of the application.

5 Admittedly, based on the circumstances, as pointed out by the learned A. P. P. herein above, the learned trial Court has convicted the applicant for the murder of wife of his brother. Further, P. W. 3, who is the minor son of deceased Rohini, has specifically stated in his examination-in-chief that on the day of the incident, the applicant had tried to set her mother on fire, but somehow she had extinguished the same. P. W. 3 has further stated that on the day of the incident at about 1.00 p. m., his father left house for his work. There was again quarrel between the applicant and his mother. Thereafter when he went out of the house for playing, he saw that the applicant had locked the door of the house and went out hurriedly after some time. It is the case of the prosecution that in the night, when husband of Rohii returned, he found lock to the door of his house. He, therefore, could not enter the house and when on the next day morning, he broke opened the said lock, he found Rohini in dead condition with various injuries on her person.

6 Further, the medical evidence on record in the form of *post mortem* report, clearly indicates that Rohini died due to smothering and there were in all 22 injuries found on her person. Moreover, some incriminating articles, such as shirt buttons, etc., were found on the spot of incident indicating presence of the applicant there. Thus, though there is no direct ocular evidence against the applicant, however, the aforesaid circumstances clearly indicate guilt of the applicant-accused. During trial, the applicant was under trial prisoner and was not released on bail.

7 Considering the *prima facie* involvement of the applicant in the commission of crime, we are not inclined to suspend his substantive sentence and to release him on bail, during pendency of Criminal Appeal.

8 Hence, we pass the following order:

(i) Criminal Application is hereby dismissed.

(SANDIPKUMAR C. MORE)
JUDGE

(V.K.JADHAV)
JUDGE

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