

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 18 OF 2021
IN
CRIMINAL APPEAL NO. 03 OF 2021**

Maresh Bharat Misal

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Priyal Sarda for Applicant.

Mr. S. S. Hulke, APP for State/Respondent

**CORAM : S. S. SHINDE AND
SARANG V. KOTWAL, JJ.**

DATE : 12th APRIL 2022.

PC :

1. This is an application for bail pending the hearing and final disposal of Criminal Appeal No.3 of 2021.

2. The prosecution case, in brief, is that, in the late evening on 02/01/2018 the applicant committed murder of his wife Manisha in the forest near the road from Ukkadgaon to Yermala. Manisha was married to the applicant on 07/05/2017. According

to the father of Manisha the applicant was having an extramarital affair and, therefore, he eliminated his wife Manisha by taking her to a secluded spot. He committed her murder by inflicting blows with a knife. He made a show of suffering injuries himself and went to a hospital at Usmanabad and got himself admitted. Manisha's father got suspicious and lodged his F.I.R. The investigation was carried out. The applicant was arrested on 07/01/2018. After completion of the investigation charge-sheet was filed and the case was committed to the court of sessions. During trial the prosecution examined four witnesses.

3. PW-1 Dadarao Fugare was father of Manisha. PW-2 Annasaheb Patil was a pancha in whose presence a cell phone, knife and Manisha's Mangalsutra were recovered at the instance of the applicant buried from under a tree near the spot. PW-3 Dr. Prafulla Dhabekar was Doctor who had examined the applicant on 02/01/2018 and had issued medical certificate. PW-4 Dhananjay Dhone, API, was the investigating officer. At the conclusion of the trial the applicant was convicted for commission of offence punishable under section 302 of IPC and was sentenced to suffer

imprisonment for life and to pay a fine of Rs.25,000/- and in default of payment of fine to suffer R.I. for six months.

4. Heard Shri. Priyal Sarda, learned counsel for the Applicant and Shri. Hulke, learned APP for the State.

5. Learned counsel for the applicant submitted that, there is no motive for the applicant to commit murder of his own wife. The recovery of murder weapon and Mangalsutra is doubtful because the evidence shows that the I.O. had covered the spot of incident after inspection and had found nothing and yet recovery is made from the same spot.

6. The applicant had taken a specific defence that, because of collision with another motorcycle, strangers picked up a quarrel with him and assaulted the applicant and his wife. The applicant himself had suffered injuries. This defence is quite probable and, therefore, should have been accepted.

7. Learned APP opposed this application. He submitted that, every single circumstance referred to by Shri. Sarda is sufficiently proved by the prosecution. The conduct of the

applicant itself shows that he has committed the offence.

8. We have considered these submissions. We have perused the depositions annexed to the Appeal memo and we have also perused the Judgment. The deceased had suffered 7 injuries. There was an incised wound over left eyebrow and C.L.W. above that incised wound. There was an incised wound over right temporal region of skull and there were three abrasions on the left shoulder, left knee and left forearm. The cause of death was “shock due to injury to vital organ, brain with associated injuries.” Thus, it can be seen that the deceased was brutally assaulted with a sharp weapon. As against that, a medical certificate at Exhibit 17 in respect of applicant shows about 17 to 18 injuries, but they were simple in nature. They were caused on shoulder, wrist, chest etc. There are three injuries on parietal region. All those injuries were described as simple injuries.

9. PW-3 Dr. Prafulla Dhabekar has deposed that, those injuries at Exhibit 17 were possible by self infliction. Though, in the cross-examination he has also stated that, those injuries could

be possible in an assault. Importantly, he has deposed that, history was narrated by the patient himself and he had claimed that, he had suffered assault. Exhibit 17 is not challenged by the appellant/applicant. This means that the applicant on his own had got himself admitted in the hospital. All the injuries were simple in nature. As per Dr. Dhabekar, there is possibility that, they could be self inflicted injuries. In this context, the applicant's conduct is important. He was very well aware that, his wife was brutally assaulted and she was lying on the spot. He had suffered only simple injuries. He himself got admitted in the hospital, but he took no steps to inform others about the injuries suffered by his wife or he himself did not take anybody to the spot to help his wife. This conduct is quite unnatural. The prosecution case is that, the applicant made a show of having suffered injuries in assault, though, all the injuries were self inflicted injuries. This allegation was supported from the fact that the deceased had suffered injuries with a sharp weapon and the applicant himself had suffered injuries with a blunt weapon. If his defence that because of some collision he and his wife were assaulted was true, it does

not stand to reason as to why the assailants would treat him softly and would target his wife with a sharp weapon.

10. Apart from this, the recovery of the murder weapon at the instance of the applicant is also important. Though, Shri. Sarda submitted that the police had inspected the spot prior to recovery and nothing was found; the recovery panchanama shows that murder weapon was buried under a tree and, therefore, it was not found by the police when the spot was inspected.

11. The motive is mentioned by PW-1 Manisha's father. It was mentioned that the applicant was having extra marital affair and therefore, he eliminated his wife. In paragraph Nos.45, 50 and 51, learned Judge has give sufficient reasons. In paragraph No.64 learned Judge has given other circumstances providing additional link to the prosecution case. Therefore, at this stage, we find that, there is sufficient material against the applicant to deny him bail. It is of course made clear that, all these issues will have to be determined finally by examining the evidence at the final hearing stage. But the applicant has failed to make out a case for his

release on bail during the pendency and final hearing of this appeal.

12. The application is rejected.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)