

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

**INTERIM APPLICATION NO.1433 OF 2021
IN
CRIMINAL APPEAL NO.609 OF 2021**

Ramchandra Dattatray Pawar

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Sachin B. Chandan, Appointed for Applicant/Appellant .
- Mr. Y. M. Nakhwa, APP for State/Respondent.

**CORAM : S. S. SHINDE &
SARANG V. KOTWAL, JJ.
DATE : 04th MAY, 2022.**

P.C. :

1. This is an application for bail during pendency of the Appeal.

2. We have heard learned counsel Mr. Sachin Chandan appointed to represent the Applicant and learned APP Mr. Y. M. Nakhwa for the State.

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3. The prosecution case is that in the night between 13/07/2018 and 14/07/2018 the Applicant assaulted his wife with a sickle and committed her murder in the field of Baburao Khatkar, village Bhadgaon, Taluka Kagal.
4. The Applicant was arrested on 14/07/2018 and since then he is in custody. He was not on bail during trial.
5. Learned counsel for Applicant submitted that there are following three incriminating circumstances against him;
 - (i) Last seen together theory.
 - (ii) Extra-judicial confession.
 - (iii) Seizure of blood stained clothes on his person.
6. Learned counsel Mr.Chandan submitted that P.W.12 Gopal Dattatray Khodve is the witness who had last seen the deceased in the company of the Applicant in that night. He was a bus driver and was passing from Bhadgaon Road. He had seen both of them quarreling. He has identified the Applicant in the Court. Mr.Chandan submitted that his statement is recorded

after 2 months and 21 days, which is almost as an afterthought and therefore his evidence is not reliable.

7. As far as the circumstance of seizure of blood stained clothes is concerned, learned counsel Mr.Chandan submitted that it was not unnatural that his clothes were blood stained because he had handled the dead body of his wife. As far as the circumstance of extra-judicial confession is concerned, the witness in that behalf is P.W.5 Sandeep Pandurang Khatkar. According to Mr.Chandan this witness is also not reliable.

8. Learned APP opposed this application. He submitted that all these circumstances are sufficient to prove the guilt of the Applicant.

9. We have considered these submissions. As far as the last seen together theory is concerned, the witness is P.W.12. There is some force in submission of Mr.Chandan that the statement was recorded much belatedly. However, even ignoring that particular aspect, important circumstance is of extra-judicial

confession, made by the Applicant to his neighbour Sandeep, who is examined as P.W.5. He has stated that on 14/07/2018 in the morning one Ambulance was parked in front of his house. The Applicant was also present there. On enquiry with the Applicant, he told this witness that he had assaulted his wife because of which she was lying silent. The Applicant told him that he had kept the dead body of his wife on Varanda of his house. This witness saw the dead body. The Applicant also told that he had assaulted the wife in the field of Babu Khatkar and therefore this witness went there and saw the situation. A piece of Saree and other articles were found on the spot. The post-mortem notes show that the deceased had suffered four injuries and the cause of death was 'death due to asphyxia due to neurogenic shock due to massive head injury'.

10. The evidence of P.W.5 is incriminating. There is no reason to disbelieve the extra-judicial confession, which is corroborated by finding of incriminating articles at the spot which were known only to the Applicant.

11. In this view of the matter, no case for bail is made out.
The bail application is rejected.
12. However, it is made clear that all these observations are made only at this stage for deciding this bail application. All other contentions are left open to be decided at the final hearing stage. Considering that the Applicant is in custody since 14/07/2018, the Appeal be added to weekly final hearing board commencing from 04/07/2022.
13. Application is disposed of.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)