

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1526 OF 2022****IN****CRIMINAL APPEAL NO. 842 OF 2022**

Nilesh Shivaji Limbhore

... Applicant/Appellant

V/s.

The State Of Maharashtra

... Respondent

Mr. Rupesh A Zade for Applicant/Appellant.

Mrs. S. D. Shinde APP, for Respondent-State.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 13th DECEMBER, 2022.****P.C. :**

1. This is an Application for suspension of sentence and releasing Applicant/Appellant on bail.
2. Applicant is Original Accused No.1 in Sessions Case No. 150 of 2013 decided by learned Additional Sessions Judge, Pune by its impugned Judgment and Order dated 16th March, 2020 thereby convicting Applicant under Section 302, 394 of the Indian Penal Code (for short “the IPC”) and has sentenced to suffer rigorous imprisonment for life.
3. Heard Mr. Zade, learned Advocate for Applicant and Mrs. Shinde, learned APP for State.
4. It is the prosecution case that, Rukmini R. Jagdale (PW-4) alongwith her husband Rajendra Jagdale (deceased) on 13th October, 2011

had been to Bidal by a two wheeler motorcycle. They started to return to Pune from Bidal by their motorcycle via Diveghat, Saswad. Between 10.00 p.m. to 10.30 p.m., they reached at Diveghat. At that time three persons came from opposite direction on a two wheeler and took a turn in front of their vehicle, due to which the vehicle of Rajendra Jagdale turned turtle and PW-4 alongwith her husband fell own. The pillion rider from opposite side motorcycle came forward and inflicted blows of knife on the chest and other parts of the body of deceased Rajendra Jagdale. It is alleged that, Accused persons also robbed PW-4 of valuables from her person. The said persons thereafter left the said place. Rajendra Jagdale died on the spot. People in the vicinity gathered at the scene of offence. The said fact was informed to Police who rushed to spot of incident immediately. Rajendra Jagdale was admitted to hospital at Loni Kalbhor where he was declared brought dead.

Dr. Ajay Taware (PW-5) conducted autopsy on the dead body of Rajendra Jagdale and noticed following injuries :

- (i) Incised wound over left side of face, 3 cm in front of tragus of left ear, 1 x 0.2 cm, muscle deep.
- (ii) Incised wound over left shoulder anteriorly, horizontal 1 x 1 cm muscle deep.
- (iii) Stab injury over left arm, anteriorly upper 1/3 region 3 x 1.5 x 4 cm.
- (iv) Incised wound, 2 cm below and medial to injury No.3, 1 x 0.5

cm muscle deep.

- (v) Stab injury over left breast, horizontal, 2 x 0.5 cm, cavity deep.
- (vi) Stab injury 5 cm below left breast, vertically oblique, 1 x 0.5 cm, cavity deep.
- (vii) Linear abrasion over left lateral side of chest, antero-posterior, 4cm behind injury No. 6 8 x 02 cm.
- (viii) Abrasion over right shoulder posteriorly 2 x 2 cm.
- (ix) Incised wound over left thigh, middle 1/3 region, anteriorly, 0.5 x 0.5 cm, subcut deep.
- (x) Incised wound over left thigh postero laterally, vertical, 1 x 0.5 cm, muscle deep.
- (xi) Incised wound over left thigh, posteriorly middle 1/3 region, vertical, 1 x 0.5 cm, muscle deep.
- (xii) Abrasion over left great toe, dorsally, 2 x 0.5 cm.
- (xiii) Abrasion over left wrist, dorsally, 3 x 2 cm.
- (xiv) Incised wound over left elbow oblique, 2 x 0.5 cm, muscle deep.
- (xv) Incised wound 2 cm below injury No.(14), oblique, 1.5 x 0.5 cm, muscle deep.
- (xvi) Incised wound over posterior aspect of left antro superior iliac spine, horizontal, 2 x 1 cm, muscle deep.
- (xvii) Incised wound over left infrascapular region of back, 8 cm

away from midline horizontal, 2 x 1 cm, muscle deep.

(xviii) Incised wound 5 cm below and medial to injury No.17, 4 cm away from midline, 1.5 x 0.5 cm muscle deep.

(xix) Incised wound over right side of back, 8 cm below infrascapular vertical line region, 3 cm away from midline, 2 x 0.5 cm, muscle deep.

(xx) Incised wound, 3 cm below injury No.19, Vertical, 2 cm away from midline 1 x 0.5 cm muscle deep.

The said injuries were corresponding to internal injuries. PW-5 has opined that, the injuries mentioned in post mortem report were sufficient in ordinary course of nature to cause death of deceased.

5. The weapon used in the present crime i.e. knife (Article-A) was recovered at the instance of Applicant. The said knife was having blood stains. Recovery panchanama (Exh-43) and Article-A have been duly identified by Santosh Gaikwad (PW-3).

6. Learned Advocate appearing for Applicant submitted that, on the day of 13th October, 2011 i.e. when the incident in question took place between 10.00 p.m. to 10.30 p.m., there was no light for identifying the Applicant by Rukmini Jagdale (PW-4). That, prosecution case is based on conjectures and there is no cogent evidence to indict Applicant. That, Applicant is in jail for last more than 10 years and therefore he may be released on bail.

7. It is to be noted here that, in the cross-examination of Rukmini Jagdale (PW-4) an admission has been brought on record that, on the date of incident there was full moon (*Purnima*) and therefore in the said light she saw the face of assailants. The said witness has identified Applicant not only in the test identification parade but also in her substantive identification at the time of recording her evidence. Weapon used in the present crime has been recovered at the instance of Applicant. The said weapon was having blood stains of human origin. Perusal of evidence of Dr. Ajay Taware (PW-5) reveals that, murder of Rajendra Jagdale was caused in a most brutal manner and it appears to us that, probably on all parts of body of deceased assault with knife was made.

8. In view of the above, we are not inclined to release Applicant on bail.

Application is accordingly dismissed.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]