

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

INTERIM APPLICATION NO. 2259 OF 2021

IN

CRIMINAL APPEAL NO. 762 OF 2021

Shrikant Kamal Chavan

...Applicant/Appellant

Versus

The State of Maharashtra

...Respondent

...

Mr. Dilip Bodake for Applicant/Appellant.

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

...

**CORAM : S. S. SHINDE &
N. R. BORKAR, JJ.**

DATE : 28th FEBRUARY, 2022.

P.C.:

1. Heard Mr. Dilip Bodke, learned counsel appearing for the appellant and Mr. S.S. Hulke, learned APP appearing for the respondent/state.

2. Learned counsel for the appellant invites attention of this Court to the notes of evidence and submits that admittedly there was no eye witness to the incident. He submits that the victim and children were sleeping in open area outside their hut/tent. Evidence of PW No.1 is of no use to the prosecution since she is not the eye witness. It is submitted that the applicant/appellant has been convicted by the trial Court without having cogent and convincing evidence on record. It is submitted that there are two children and old mother of accused who are dependent upon him, and

nobody is there in his family to take care of his two children and old mother.

3. On the other hand, learned APP invites attention of this Court to the medical evidence as also the evidence of PW No.1, and submits that the prosecution has proved that on the day of incident, the applicant/appellant quarreled with the victim (Sangita wife of appellant) and thereafter he killed her. The axe and the shirt of the accused stained with blood came to be recovered from the spot of incident. After commission of offence, the appellant ran away from the spot of incident. He therefore submits that application needs to be rejected.

4. We have heard the learned counsel for the applicant/appellant and the learned APP. Perused the notes of evidence. Upon perusal of the notes of evidence, we are of the opinion that, for the reasons stated herein after, the application of the appellant for bail deserves no consideration.

5. Firstly, the prosecution has proved that the death of Sangita is homicidal. Secondly, the prosecution has also brought on record the evidence to prove the presence of the appellant within the proximity of the time and date of the incident as also the incriminating articles have been recovered from the spot i.e. blood stained shirt and the axe. Thirdly, the accused instead of taking the deceased to the hospital, ran away from the place of incident. Lastly, it was expected from the appellant to disclose the fact within his special knowledge as to how his wife died, since his presence

at the relevant time near the spot of the incident has been proved by the prosecution. However, same is not done.

6. Be that as it may, we are not inclined to entertain the application of the Applicant/Appellant for suspension of sentence and enlarging him on bail. At this stage, it may not be desirable to give the detailed reasons since appeal filed by the appellant is pending for hearing. Hence, the interim application stand rejected.

7. We make it clear that the observations made herein above are prima facie in nature and are confined to the adjuration of this application.

8. Keeping in view the fact that there are two children and mother dependent on the applicant as contended by the learned counsel for the applicant, we deem it appropriate to direct the Registry of the Sessions Court, Pune to expedite the preparation of the paper book and send it to the Registry of this Court with original record and proceedings.

9. Upon receiving the said paper book and record and proceeding, liberty to the learned counsel appearing for the appellant to mention the appeal for early hearing.

(N. R. BORKAR, J.)

(S. S. SHINDE, J.)