

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO.364/2020

IN

CRIMINAL APPEAL NO.341/2020

Pandurang s/o. Govinda Chute Vs. The State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri V. D. Muley, Advocate for Applicant.
Shri M. K. Pathan, A.P.P. for Non-applicant/State.

CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.

DATE : 29/04/2022.

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard Shri V. D. Muley learned counsel for the applicant and Shri M. K. Pathan, learned A.P.P. for the State. With their able assistance we have also gone through the record and proceedings of Sessions Trial No.64/2016 decided by the learned Additional Sessions Judge, Bhandara, dated 20.06.2020 under which the present applicant stands convicted for the offence punishable under Section 302 of the Indian Penal Code.
3. Applicant along with his wife Gopika were charged for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code for committing murder of their close relative Pandhari Chute. The learned Judge by the impugned judgment though acquitted Gopika, convicted applicant – Pandurang.

4. There are two eye witnesses in the prosecution case. They are PW2- Ratiram Gopala Chute and PW3- Sau. Anusaya Devnath Bhendarkar. Reading of their evidence would show that something was said by deceased to the acquitted accused – Gopikabai, which was ultimately communicated to the present applicant, resultantly he took out the wooden stick and gave two blows on the head of the deceased, resulting into his death.

5. There are no criminal antecedents against the present applicant. He was on bail during trial and at no point of time he has misused the liberty granted to him.

6. It appears from the evidence as adduced on record that the incident in question has occurred in a spur of moment and the entire incident was over within very few minutes. In that view of the matter, we are of the view that ultimately at the time of final hearing the Court may scale down the offence from under Section 302 of the Indian Penal Code to any lesser one. In that view of the matter, the present application can be considered favourably. Resultantly, we pass following order.

i] The judgment and order of conviction convicting applicant - Pandurang s/o. Govinda Chute in Sessions Trial No.64/2016 by the learned Additional Sessions Judge, Bhandara dated 20.06.2020 shall remain suspended during pendency of the present appeal.

ii] Applicant Pandurang s/o. Govinda Chute be released on bail on he executing PR bond of Rs.5000/- with one solvent surety in the like amount.

iii] The applicant is directed to attend Police Station Palandur, Dist. Bhandara once in six months and shall mark his presence during the pendency of the present appeal.

iv] The applicant is directed to remain personally present before this Court at the time of final hearing of this appeal.

v] The learned Judge who will be ultimately issuing the release warrant, shall ensure that entire fine amount is deposited by the present applicant, if not already deposited.

With these observation, the application is allowed and disposed of.

JUDGE

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