

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**2 CRIMINAL APPLICATION NO.1266 OF 2023
IN APEAL/316/2023**

Mahesh Shivram Nisad

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Advocate for Applicant : Mr.Shekade Shashikant E. and Ms.
Sabale Sarita Shesharao

APP for Respondent-State : Ms. R.P.Gaur

...

CORAM : R. G. AVACHAT, J.

DATE : 17.04.2023.

PER COURT :

1. Heard.
2. The applicant has been convicted by the learned Additional Sessions Judge, Ahmednagar in Sessions Case No. 75 of 2021 by its judgment dated 18.11.2022, for the offence punishable under Section 304-I of the Indian Penal Code and sentenced to suffer rigorous imprisonment for a period of 10 years and to pay fine of Rs. 25,000/-, in default to suffer rigorous imprisonment for 6 months.
3. The learned APP adverts the attention of this Court

to the postmortem report to point out that the deceased suffered 9 injuries. The Doctor's evidence is consistent with the postmortem report. According to her, the deceased had made dying declaration.

4. It is not known why the State has not preferred an appeal against acquittal for the offence punishable under Section 302 of the Indian Penal Code.

5. For about 2 years and 5 months the applicant is in jail. Both applicant and deceased were residing together. Some quarrel has preceded the incident. There is no eye witness to the incident. The appeal is of this year. It will take time to have its turn for hearing.

6. In view of the aforesaid back drop, the application is allowed in terms of the following order :

ORDER

- (a) The application is allowed.
- (b) Pending the appeal, the execution of substantive sentence of imprisonment imposed upon the applicant by the learned Additional Sessions Judge, Ahmednagar, in Sessions Case No. 75 of 2021, by its judgment dated 18.11.2022, to stand suspended. The applicant be released on bail on his executing P.R. bond in the

sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(R. G. AVACHAT)
JUDGE

mahajansb/