

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

**950 CRIMINAL APPLICATION NO.1464 OF 2023
IN APEAL/631/2021**

Dattatraya @ Dattatray Kondiba Kamble ...Applicant

VERSUS

The State of Maharashtra ...Respondent

...
Advocate for Applicant : Mr.Ostwal Abhaykumar Dilip
APP for Respondent-State : Mr.K.N.Lokhande
...

**CRIMINAL APPLICATION NO.1465 OF 2023
IN APEAL/632/2021**

Balaji Dattatraya Kamble ...Applicant

VERSUS

The State of Maharashtra ...Respondent

**CORAM : R. G. AVACHAT, J.
DATE : 20.04.2023.**

PER COURT :

1. Heard.
2. Both the applicants have been convicted for the offence punishable under Section 304-B read with Section 34 of the Indian Penal Code (for short "IPC") and therefore, sentenced

to suffer rigorous imprisonment for 10 years. They are also convicted for the offence punishable under Section 498-A read with Section 34 of the IPC and sentenced to suffer rigorous imprisonment for 1 year, and for the offence punishable under Section 4 of the Dowry Prohibition Act and sentenced to suffer rigorous imprisonment for 6 months. All the sentences are directed to run concurrently.

3. The learned APP would submit that the deceased was married with the applicant Balaji on 10.04.2016, while she died on 31.12.2016. There were injuries on her person. The evidence of PW-3 Santosh was adverted to submit that just immediately on the preceding day, when the deceased died, this witness had seen the applicant Balaji and the deceased to have been quarreling with each other.

4. According to the learned APP, the deceased was in advanced stage of pregnancy. On the day of 'Dohal Jeven' the applicants even demanded a 'Gold Locket' and a 'Gold Ring'. According to the learned APP, the applicants do not deserve mercy, by granting even suspension of sentence.

5. In terms of evidence, the learned APP may be correct, but the fact is that the appeal is of this year. Pending trial, the applicants were in jail. Against the sentence of 10 years' imprisonment the applicants have undergone so far, 5 years and 2 months i.e. the little over half of the sentence of imprisonment imposed against them. One of the applicants is 72 years of age. The applicant Balaji has already lost his Government job on the account of conviction. Since the appeal is not likely to be heard in the near future the applicants are behind the the bars and that little over half of the sentence has been undergone by both the applicants, their applications deserve to be allowed. In view of the same, the applications are allowed in terms of the following order :

ORDER

- (a) The applications are allowed.
- (b) Pending the appeal, the execution of substantive sentences of imprisonment imposed upon the applicants by the learned Additional Sessions Judge-2, Udgir, District Latur, in Sessions Case No. 25 of 2017, by the judgment and order dated 21.09.2021 to stand suspended. Both the applicants be released on bail on their executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with one surety each in the like amount.
- (c) The amount of fine be deposited before the Additional

Sessions Court, Udgir.

(d) This order shall not be given effect to, unless the amount of fine is deposited in the Court.

(R. G. AVACHAT)
JUDGE

mahajansb/