

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

**CRIMINAL APPLICATION NO.4232 OF 2022
IN APEAL/923/2022**

**SHAIKH PASHAMIYA GUFOORSAB
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Sanjaykumar B. Chavan
APP for Respondent – State : Mr. R. D. Sanap

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**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 05 JANUARY 2023

PER COURT :

1. Present application has been filed for suspension of sentence. The applicant/accused stood prosecuted for committing murder of his own wife in Sessions Case No. 26 of 2016. After the evidence was led, the learned Additional Sessions Judge, Kandhar, Link Court Mukhed, District Nanded held the applicant guilty for offence punishable under section 302 of Indian Penal Code and sentenced him thus :-

“The accused namely Shaikh Pashaminy Gafoorsab, R/o Kerur, Tq. Mukhed, Dist. Nanded is hereby convicted u/sec. 235(2) of Code of Criminal Procedure for the offence punishable u/sec. 302 of Indian Penal Code and sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/-, in default to suffer further Simple Imprisonment of three months.”

2. With the able assistance of the learned advocate for the applicant/appellant and the learned APP, we have gone through the record.

3. It is to be noted that the weapon used is knife. The incident stated to have taken place at 7.00 a.m. in the house of applicant. Applicant's son, who has then minor around 16 to 17 years of age, is the eye witness and he has been examined as well as cross-examined by the applicant at length.

4. The postmortem report would show three injuries, one is penetration injury present over left mammillary region in lower quadrant, second is stab wound present over left hypochondriac region, and third is stab wound present over left iliac region. Thereafter, also corresponding injuries noted in the column 20. Probable cause of death is due to 'heamorrhagic shock'. It appears that other evidence is also supporting the prosecution story. The applicant was not released on bail throughout the trial. We do not consider this to be a case where sentence can be suspended.

5. The application stands rejected.

(ABHAY S. WAGHWASE, J.)

(SMT. VIBHA KANKANWADI, J.)

Tandale/-