

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

**INTERIM APPLICATION NO.350 OF 2022
IN
CRIMINAL APPEAL NO.461 OF 2018**

Devendra Baban Raut

Age 28 years, Occ: Confined in jail

R/o At post, Angalepatwadi, Tal.Rajapur,

Dist.Ratnagiri

At present in Yerwada Jail, Pune,

District-Pune.

... Applicant/Org.Accused.

Versus

The State of Maharashtra

Through Rajapur Police Station,

Tal.Rajapur, Dist.Ratnagiri,

.... Respondent.

Mr. R.K. Mendadkar, Advocate for the Applicant.

Mr V. B. Konde-Deshmukh, APP for the Respondent-State.

**CORAM: NITIN W. SAMBRE AND
R. N. LADDHA, JJ.**

DATE : 31 JANUARY 2023.

Order (Per R.N.Laddha,J.) :-

. This is an Application for suspension of sentence and release of the Applicant on bail.

2. The Applicant, who is Accused in Sessions Case No.22 of

2016, was charged and tried by the learned Sessions Judge, Ratnagiri, for the commission of an offence punishable under Section 302 of the Indian Penal Code. The trial Court, by the impugned Judgment and Order, convicted the Applicant *inter alia* for the offence punishable under Section 302 of the Indian Penal Code and sentenced him to suffer life imprisonment.

3. It is the case of the prosecution that on 7.5.2016, the Applicant assaulted the deceased Anaji Bhanu Raut with an iron bar and committed his murder.

4. Mr.R.K. Medadkar, the learned Counsel appearing on behalf of the Applicant, submitted that the evidence of PW 4 and PW 5 are not consistent with each other. It is submitted that though PW 5 deposed that on the day of the incident, PW 4 came to her home and told her that when she returned home from the field, she heard the cry from her house and upon entering the house, she saw that her husband deceased was lying in a pool of blood. At that time, her husband disclosed that the Accused had inflicted a blow of iron rod on his head. PW 4 asked her to accompany her to shift her husband/deceased to the hospital. She, therefore, made a telephone call to the Police Patil, and after that, she, along with PW 4, went to the spot of the incident. However, PW 4 never stated or claimed that she at the relevant time met with PW 5. It is submitted that there was an agricultural land dispute between the Accused and the

deceased, and a civil suit was also pending between them. It is submitted that in the cross-examination of PW 4, she had categorically admitted that when she returned to home from the field, she saw that her husband was lying in the courtyard and after that, she called Police Patil and one Subhash Raut, who brought her husband inside the house. She further admitted that when they shifted her husband to the room, from the courtyard, at that time, her husband was not speaking anything. It is submitted that the so-called recovery of weapon is doubtful.

5. Mr V.B. Konde-Deshmukh, learned APP for the State, submitted that there is evidence in the form of the oral dying declaration to connect the present Applicant with the crime. It is submitted that the deceased was brutally murdered, and thus, the Application may be rejected.

6. It is not in dispute that there is no eyewitness to the incident. The evidence of the prosecution witnesses pointed out by the learned Counsel for the Applicant, as above, is not consistent. Considering these facts, the case for grant of bail is made out. The Application is, accordingly, allowed in the following terms.

Order

- a) During the pendency of the present Appeal, a substantive sentence imposed upon Applicant is suspended, and he be released on bail, on the execution

of a PR Bond of Rs.25,000/-, with one or two solvent sureties in the like amount, to the satisfaction of the learned trial Court.

b) The Applicant shall remain present before this Court as and when directed.

7. Interim application stands disposed of.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]