

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

**INTERIM APPLICATION NO. 1860 OF 2022
IN
CRIMINAL APPEAL NO. 799 OF 2022**

Suresh Parsappa Walikar ... Applicant/Appellant
Versus
The State of Maharashtra ... Respondent

Mr. Pramod Kathane a/w. Adv. Samyak Bhatkar & Adv. Pooja Kamble for the Applicant/Appellant.
Shri A. R. Kapadnis, A.P.P for the Respondent-State.

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

DATED : 25th JANUARY, 2023

P.C.:

1. The applicant came to be convicted for an offence punishable u/s. 302 of IPC and is sentenced to undergo rigorous imprisonment for life.
2. Learned counsel for the applicant while trying to make out a case for grant of bail would urge that PW-7, father of the applicant so also of deceased-Sitaram, an eye-witness to the incident has not supported the case the prosecution. According to him, the said witness has specifically stated that during altercation with deceased, the deceased fell on hoes pipe which has resulted into causing deep injury. It is claimed that such injury was proven to be

life threatening. He has further urged that the aforesaid testimony is ignored by the Court below while awarding the conviction.

3. He would further urged that the evidence of P.W. No.-1 i.e wife of the deceased is contradictory to the extent of her very physical presence on the spot of the incident as P.W. No. 7 has in categorical terms stated that P.W. No. 1 at the relevant time was not present on the spot of the incident.

4. Mr. Kapadnis, Learned APP would oppose the prayer based on the testimony of P.W. No. 1-Mahananda, wife of deceased - Sitaram so also P.W. No. 5-Dhanamma daughter of the deceased - Sitaram.

5. We have appreciated the rival submissions.

6. With the assistance of the respective counsels, we have perused evidence of witnesses particularly eye-witnesses to the incident viz. P.W. No. 4, P.W. No. 5 and P.W. No. 7.

7. P.W. No. 7 has supported the case of the prosecution, however, has deposed in his evidence about the physical presence of P.W. No. 1-wife of deceased-Sitaram. He has stated that P.W. No. 1 used to work and return back from her daily work after 6.00PM and the incident has occurred at 5.30PM.

8. Leave apart the aforesaid contradiction, if we appreciate the

evidence of P.W. No. 1 & P.W. No. 5 who are eye witnesses to the incident, their testimony reposes the faith in the story of the prosecution as both these witnesses in categorical terms have stated about injury being caused by the applicant/accused with the help of knife, weapon which is seized during the investigation of the offence in question.

9. Apart from above, the motive is very much established as the applicant was addicted to liquor and has developed a quarrelsome behavior. Before happening of incident, the applicant has locked his own mother and has quarreled with not only the deceased but also P.W. No. 1. In retaliation when questioned by the deceased, the applicant appears to have gave him stab injury.

10. In view of above, there is enough material to infer prima facie involvement of applicant in serious offence. No case for grant of relief u/s 389(1) of Cr.P.C is made out.

11. The application as such fails, rejected.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)