

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

**INTERIM APPLICATION NO.336 OF 2023
IN
CRIMINAL APPEAL NO.1243 OF 2022**

1.Narendra Manohar Ingale

Age : 25 years,

2.Manohar Govind Ingale

Age : 50 years,

3. Ranjana Manohar Ingale

Age: 45 years,

All R/o.Bhavepathar, Tal.Mahad,

Dist.Raigad.

(All presently lodged at Amravati

Central Prison)

.... Applicants.

Vs.

The State of Maharashtra

(At the instance Mahad MIDC

Police Station, Dist: Raigad)

.... Respondents

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

DATE : 20 FEBRUARY 2023.

Mr Aniket Nikam, Advocate i/by Amit Icham for
Applicant/Appellant.

Mr AR Kapadnis, APP for Respondent-State.

Order (Per R.N. Laddha) :

This is an application for suspension of sentence and grant of bail during the pendency of the Appeal.

2. The trial Court, by the judgment and order dated 21.11.2022, in Sessions Case No.3 of 2012, convicted the Applicants for the offences punishable under Sections 302, 201, 498-A, 120-B r/w 34 of the Indian Penal Code and sentenced them to suffer life imprisonment.

3. It is the case of the prosecution that in between 7.00 a.m. of 1.11.2011 to 10.00 a.m. of 3.11.2011 within the limits of village Bhavpathar, all the Applicants/Accused, in furtherance of their common intention, committed murder of deceased Aarti and to screen themselves from the legal punishment thrown the dead body of Aarti in the well and caused to disappear the evidence by knowingly giving false information. It is also the case of the prosecution that all the Accused, in furtherance of their common intention, subjected the deceased Aarti to cruelty.

4. In ***Niranjan Singh & Anr. Vs. Prabhakar Rajaram Kharote & Ors.***¹, the Hon'ble Supreme Court, enunciated that a detailed examination of evidence and elaborate documentation of the merits should be avoided while passing orders on bail applications.

1 (1980)2 SCC 559.

5. Keeping in view the above principle, we have heard Mr Aniket Nikam, learned Counsel for the Applicants and Mr A.R. Kapadnis, learned Additional Public Prosecutor for the Respondent- State.

6. Mr Aniket Nikam, the learned Counsel appearing on behalf of the Applicant, submitted that there is no eyewitness to the incident, and the prosecution relies on circumstantial evidence. He submitted that the tests prescribed in a case based upon circumstantial evidence in *Sharad Birdichand Sarda Vs. State of Maharashtra*², was not fulfilled in this case. He submitted that most of the circumstances had not been proved by the prosecution and, in any case, the proved circumstances were not sufficient to sustain the conviction.

7. Mr Nikam pointed out that panch witnesses did not say that at the time of the seizure of the clothes of the Accused, they were stained with blood. He submitted that the alleged weapon was not shown to the doctor to confirm whether the such injuries was possible by the seized weapon. Further, he pointed out that PW 5 in his cross-examination does not answer the question as to whether police told him that those clothes are of Accused No. 1 to 5 and he only signed the Panchanama. It has been submitted that the learned Additional Sessions Judge has not adverted to and, in

² (1984) 4 SCC 116.

any case, not considered the Applicants' statement under Section 313 of the Code of Criminal Procedure. He informed that all three Applicants were on bail during the trial. Further, he submitted that from the Chemical Analyser's report no definite opinion can be formed.

8. Mr A.R. Kapadnis, learned APP for the State, submitted that the impugned conviction is based on the reasoning reflected in judgment and order. He submitted that the circumstances proved by the prosecution are sufficient to connect the Applicants with the crime.

9. It is not in dispute that there is no eyewitness to the incident. It is also not in conflict that the alleged weapon was not shown to the doctor when conducting post-mortem to confirm whether such injuries were possible by the said weapon. The Investigating Officer, in his cross-examination, has admitted that no incriminating articles were found at the spot of the incident. Further, he acknowledged that nothing was found on the clothes of the Accused.

10. Considering these facts, the case for suspension of sentence and grant of bail is made out. The Application is, accordingly, allowed in the following terms.

ORDER

- i) During the pendency of the present Appeal, a substantive sentence imposed upon Applicants is suspended, and they be released, on bail, on the execution of a PR Bond of Rs.25,000/- each, with one or two solvent sureties in the like amount, to the satisfaction of the learned trial Court.
- ii) The Applicants shall remain present before this Court as and when directed.

11. Interim Application stands disposed of.

[R. N.LADDHA, J.]

[NITIN W. SAMBRE,J.]