

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

**INTERIM APPLICATION NO.1138 OF 2022
IN
CRIMINAL APPEAL NO. 354 OF 2022**

1. Shrikant Ashok Sathe
2. Leelabai Ashok SatheApplicants
V/s
The State of MaharashtraRespondent

Dr. Yug Mohit Chaudhary for the Applicants.
Ms. M. M. Deshmukh, APP for the Respondent-State.

**CORAM : NITIN W. SAMBRE &
RAJESH S. PATIL, JJ**

DATED : 28th AUGUST, 2023

P.C.:

1. In Sessions Case No 07 of 2020 both the Accused/Applicants who are son and mother are convicted and sentenced to undergo life imprisonment vide judgment and order dated 28/01/2022 delivered by Additional Session Judge / DJ-1, Islampur. The date of arrest of both the Applicants / Accused is 17/08/2019.
2. The Accused No. 2-Lilabai is the mother of Accused No. 1-Shrikant. The Accused No. 2-Lilabai was on bail during trial.
3. The genesis of prosecution story is, the daughter of Accused No. 2-Lilabai and sister of Accused No. 1-Shrikant viz. Suvarna had love marriage with deceased-Sunil in 2015. Suvarna died of

burn injuries, however, the cause of death of Suvarna, according to the Applicants, was attributed to the deceased-Sunil. In this background, the motive attributed to the Applicants is of killing Sunil with bricks and stones so as to take revenge.

4. Mr. Chaudhary, learned Counsel appearing for the Applicants submits that leave apart, Accused No. 2-Lilabai was on bail during the course of the Trial, this Court needs to be sensitive to two aspects - (a) that the Accused / Applicants were not pre-armed or there was no premeditation to commit the offence and as such there is absence of motive to kill the deceased-Sunil and (b) that the conviction is based on the sole testimony of PW No. 3-Santosh, who has been claimed to be the person acquainted with deceased-Sunil.

5. In this background, he would urge that Accused No. 1-Shrikanat who had already suffered incarceration of almost 4 years also deserved to be released on bail.

6. Learned APP, Ms. Deshmukh opposed the prayer based on the testimony of eye witness, P.W. No. 3 who was examined at Exhibit-34. Apart from above, she would invite attention of this Court to the testimony of the doctor P.W. No. 5 who was examined at Exhibit-40. According to her, the final cause of death, as

mentioned in the final death report - Exhibit-48, speaks about head injuries caused because of bricks and stones and as such, there is sufficient evidence to conclude that the Applicants have actively and intentionally participated in the commission of offence.

7. We have appreciated the submissions.

8. The conviction is based on the testimony of eye witness, P.W. No. 3. The P.W. No. 3 has specifically stated about Applicants having assaulted the deceased - Sunil with bricks and stones.

9. The motive attributed to the Applicants is that of taking revenge as the daughter of Accused No. 2-Lilabai and sister of Accused No. 1-Shrikant died due to burn injuries after her marriage with deceased - Sunil in 2015.

10. Mr. Chaudhary, learned Counsel for the Applicants that the Applicants rightly pointed out that the Applicants were not armed with any weapon and it cannot be said that there was premeditation in between the Accused persons to infer the meeting of minds and attribute intention to cause an offence of murder punishable u/s. 302 of IPC.

11. Admittedly, the cause of death is, head injury which was caused because of the weapon used in the offence viz. stones and

bricks. *Prima facie* there appears to be absence of motive to kill the deceased-Sunil.

12. Apart from above, Applicant No. 2-Lilabai was on bail during trial. In this background, we deem it appropriate to allow the Interim Application.

13. Both the Applicants be released on bail in Sessions Case No. 07 of 2020 for the offence punishable u/s 302 r/w. 34 of IPC upon furnishing P.R. bond in the sum of Rs. 25,000/- **each** with one or two sureties in the like amount.

14. The Applicants shall neither influence the witnesses nor tamper with the evidence in any manner.

15. The Interim Application is allowed in aforesaid terms and stands disposed of.

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)