

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

**INTERIM APPLICATION NO. 1062 OF 2023
IN
CRIMINAL APPEAL NO. 1200 OF 2022**

Bhoru Roopchand Pawar ...Applicant/Appellant
V/s.
State Of Maharashtra ...Respondent

Mr. Amit Mane, Appointed Advocate for Applicant/Appellant.
Mr. Ajay Patil, A.P.P. for the Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.**

DATE : 31st MARCH 2023.

P.C.:-

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

Applicant/Accused in C.R. No.157 of 2013 registered with Wadivarhe Police Station, District Nashik, has been convicted under Section 302 of Indian Penal Code by the learned District Judge-5 and Additional Sessions Judge, Nashik in Sessions Case No.75 of 2014 by its Judgment and Order dated 15.12.2017.

2. Heard Mr. Mane, learned Advocate appointed to represent Applicant. Perused notes of evidence.

3. The deceased-Nanda Pawar was the wife of Applicant. Ms. Suman Mukane was neighbour of the Applicant. She used to call the Applicant as grand father and deceased as grand mother. In her cross examination, she

has admitted that, on the fateful day in the noon, the Applicant came after consuming liquor and started demanding the meals from his wife hurriedly, to which deceased retorted. That, lead to cause anger to the Applicant and due to which he started beating deceased with stick and stone. The other witnesses heard the shouts of deceased and they also gathered at the scene of offence. The deceased fell on the ground with injuries to her head.

4. Dr. Prashant Naidu (PW-3) has conducted autopsy on the body of Nanda Pawar and noticed following three injuries which are noted in the column No.17 of the postmortem notes.

- i) Contusion right frontal region of Scalp 4.5 cm X 4 cm.
- ii) Contusion abrasion left side chest 3 cm above left side nipple 3 X 2.5 cm. Reddish in colour.
- iii) Contused abrasion left side chest below 3 cm of left nipple of 5 X 3.5 cm. Reddish in colour.

5. Perusal of evidence prima facie indicates that, the act of Applicant may fall under the purview of Section 304(ii) of Indian Penal Code and may not be an act as contemplated under Section 302 of the Indian Penal Code.

The Applicant is behind bars since 20.10.2013 and has undergone more than 9 years of incarceration as of today. Record indicates that, there are no antecedents at the discredit of Applicant.

6. In view of the above, during the pendency of present Appeal, substantive sentence imposed upon the Applicant can be suspended and he can be released on bail.

Hence, the following Order :-

(i) During the pendency of the present Appeal, substantive sentence imposed upon the Applicant is suspended.

(ii) Applicant be released on bail in connection with C.R. No.157 of 2013 registered with Wadivarhe Police Station, District Nashik, on his furnishing PR. bond of Rs.20,000/- with one or two local sureties in the like amount.

(iii) After his release from Jail and during the pendency of Appeal, Applicant shall attend Wadivarhe Police Station, District Nashik on every first Monday of the month between 11.00 a.m. and 1.00 noon initially for a period of one year and subsequently, on every first Monday of the every 3rd Month i.e. four times in a year, between 11.00 a.m. and 1.00 noon during the pendency of Appeal.

(iv) If the Applicant commits two consecutive defaults in complying with condition No.(iii) above, in that event, the prosecution will be at liberty to file an Application for cancellation of bail.

7. Application is allowed in the aforesaid terms.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)