

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1508 OF 2022****IN****CRIMINAL APPEAL NO. 505 OF 2022**

Laxman Jagu Shinde

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Mahindra Deshmukh, Advocate for Applicant.

Mrs. M. M. Deshmukh, APP for Respondent-State.

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**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 5th APRIL 2023.****P.C.:-**

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal No.505 of 2022.
2. The Applicant was prosecuted for an offence under Section 302 of the Indian Penal Code. Vide judgment and order dated 7th January 2022 passed by the learned Additional Sessions Judge, Barshi, the Applicant was convicted for offence under Section 302 of IPC and sentenced to undergo imprisonment for life and fine of Rs. 25,000/-.
3. The prosecution case is that, the marriage between Applicant/accused and deceased Savita was solemnized about nine years prior to the incident. The accused was ill-treating the deceased. He

performed marriage with another woman. After knowing that, the accused was already married, the family of second wife drove him out of house. He again joined the deceased and cohabited with her for about six months. She was again ill-treated. On 11th June 2018, they were in the huts situated in the field of Dr. Shirsish Bhumakr, at Osmanabad Chowk Vairag, Taluka Barshi, Dist. Solapur. There was quarrel between Applicant and deceased. On 12th June 2018 it was noticed that, son of the deceased was crying. On entering the hut, it was found that, Savita was lying dead. There was ligature mark on her neck. The accused had committed murder of deceased Savita by throttling. FIR was lodged by brother of the deceased. On completing investigation. Charge-sheet was filed.

4. The prosecution examined 11 witnesses. On the basis of evidence adduced by prosecution, the applicant was convicted for offence under Section 302 of IPC.

5. Learned Advocate for the Applicant submitted that, the Applicant has been falsely implicated in this case. There is no eye witness to the incident. The case is based on circumstantial evidence. The Applicant is in custody from 15th June 2018. The prosecution has not established the case beyond doubt. There is no independent evidence to prove the charge. Merely on the basis of allegations that, there was quarrel and threat by accused, it cannot be inferred that the Applicant has committed murder of his wife. It is not established that death was homicidal.

6. Learned APP submitted that there are strong circumstances against the Applicant. The prosecution has proved its case beyond about. The prosecution had examined about 11 witnesses. There evidence was not shaken by defense.

7. The deceased Savita was the wife of Applicant. During the subsistence of marriage, the Applicant had performed marriage with another woman. The second marriage was broken since the family of second wife learnt about applicant's first marriage. The Applicant was blaming the deceased for that situation. Evidence of PW-1 (informant) and other witnesses indicate that, the Applicant/accused was ill-treating the deceased Savita. The Applicant was demanding marriage expenses from the deceased since, according to him his second marriage was broken due to her. The evidence on record discloses that, on 11th June 2018 all of them went to sleep in the huts situated in the field of Dr. Bhumkar and on the next day morning deceased Savita was found dead. There were ligature marks on her neck and tongue was stuck. Mahindra Baburao Jadhav (PW-3) and Shantabai Santosh Jadhav (PW-4) had deposed in the line of PW-1. Dr.Jayawant Baburao Gund (PW-6) is the Medical Officer. He deposed that, on examination of body of deceased he found multiple abrasions on anterior aspect of neck and both sides of neck at level of thyroid cartilage with band of yellowish brown tissue of skin seen at around the level of thyroid cartilage which is irregular in dimensions. More mark on anterior

aspect on both sides of neck with multiple crescentic abrasions. Dissection of neck shows extravassation of blood under the ligature mark and parochial hemorrhages in submucosal layer of larynx and well marked bruising of muscles around larynx bruising of base of tongue seen. He has specifically mentioned the location of ligature mark on neck. The evidence on record discloses that, the body of deceased was found in the hut. On 11th June 2018, the accused was quarreling with the deceased. PW-1 intervened in the quarrel. Paternal uncle and mother of the deceased had also intervened in the quarrel. Thereafter, the accused and Savita (deceased) went in hut. On the next day, she was found dead. Thus, the deceased was last seen in the company of the Applicant/accused. His defence is of total denial. He failed to give an explanation in accordance with Section 106 of the Evidence Act. Hence no case for suspension of sentence and grant of bail is made out.

ORDER

(i) Interim Application No.1508 of 2022 is dismissed.

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)