

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

**INTERIM APPLICATION NO. 3786 OF 2022
IN
CRIMINAL APPEAL 1067 OF 2022**

Gurunath Janu Hiram

....Applicant/Appellant

V/S

State of Maharashtra

....Respondent

Adv. Mohammed U. Kazi a/w. Mr. T. A. Momin for the Applicant.
Smt. M. M. Deshmukh, APP for the respondent - State.

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

DATED : 10th FEBRUARY, 2023

P.C.:

1. In Session Case No. 370 of 2018 applicant came to be convicted for the offence punishable u/s. 302 of IPC and is sentenced to life imprisonment.
2. The conviction is based on last seen. The other incriminating material is, 30 kg stone which is used in giving single blow on the head of the deceased which has resulted into crushing injury (cause of death). The last seen appears to be the basis for conviction.
3. P.W. No. 3, has deposed in support of the case of the prosecution stating that the applicant was last seen with the

deceased when three of them have consumed the liquor.

4. The motive as could be inferred from the theory of the prosecution is quarrel between the deceased and the applicant over the issue of consumption of liquor.

5. In the aforesaid background, if we appreciate the evidence on record, what can be noticed is, the deceased has died of single crush injury caused by a stone and as such, the applicant cannot be said to be carrying weapon. The quarrel under the influence of the liquor perhaps has resulted into the aforesaid incident. Apart from the quarrel under the influence of liquor, there does not appears to be any other motive as could be inferred from the prosecution story.

6. The conviction is solely based on the circumstantial evidence.

7. In view of above, in our opinion case for grant of bail is made out.

8. The applicant be released on bail in Session Case No. 370 of 2018 arising out of C.R. No.I-126 of 2018 registered with Tokawade Police Station for offence punishable u/s. 302 and 201 of Indian Penal Code upon furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

9. The applicant shall remain outside the jurisdiction of the police station till conclusion of hearing of the appeal.
10. The applicant shall neither influence the witnesses nor tamper with evidence in any manner.
11. Application is allowed in aforesaid terms and stands disposed of.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)