

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

**INTERIM APPLICATION NO.3911 OF 2022
IN
CRIMINAL APPEAL NO.670 OF 2022**

Hanmant Dadaso Khandekar ..Applicant/Appellant
Versus
State of Maharashtra ..Respondent

Mr. Satyavrat Joshi i/by Sumant Deshpande, for the Applicant/
Appellant.

Mr. A. R. Kapadnis, APP for the Respondent/State.

**CORAM : NITIN W. SAMBRE &
S. G. DIGE, JJ.**

DATE : 22nd FEBRUARY, 2023

PC.

1. The applicant/appellant came to be convicted for an offence punishable under Section 302 of IPC in Sessions Case No.86 of 2020, wherein he was sentenced to undergo life imprisonment.

2. While trying to make out case for grant of relief under Section 389(1) of CrPC for suspension of sentence and grant of bail, counsel for the applicant, Mr. Satyavrat Joshi would invite attention of this Court to the testimony of mother/PW-1-Rani, PW-6/Audumber, a neighbour and PW-7/Dr. Pooja. According to him, the marriage of the deceased with the applicant was solemnized on 19th May, 2014 and the alleged incident has occurred

on 8th December, 2019 when initially ADR was registered on 9th December, 2019. According to him, PW-1/Rani, mother of the deceased has lodged an FIR alleging murder of the deceased wife of the applicant against which the applicant came to be arrested on 18th December, 2019.

3. Contentions of Mr. Satyavrat Joshi are, apart from unexplained delay in lodging FIR, he would urge that the prosecution has failed to bring home guilt of the applicant by adducing cogent evidence. He would urge that PW-6 has given certain admissions in his cross-examination which can lead to the only inference of death of wife of applicant is accidental and not murder. He would further urge that the motive of committing murder is not established and that being so, the applicant deserves to be released.

4. Learned APP would oppose the prayer.

5. With the assistance of both the counsels, we have perused the testimony of PW-1/Rani, PW-6/Audumber, a neighbour who rushed to the spot of the incident and PW-7/Dr. Pooja in her testimony has deposed that the deceased has sustained *ante-mortem* injuries for which applicant owes an explanation which he has failed to. Apart from above, perusal of the spot panchanama, the testimony of the witnesses eventually establishes that the incident cannot be termed a mere accident.

6. The motive attributed against the applicant as that of non-fulfilment of demand of medical expenses for taking infertility treatment, the fact of the deceased not conceiving the child almost for a period of five years is sufficiently established.

7. Apart from above, the fact remains that even if the applicant was found in the water along with deceased, the applicant survived himself which sufficiently speaks of very motive/conduct of the applicant. From the spot panchanama and other oral evidence, it can be noticed that applicant and deceased both were riding on a motorcycle which fell from the bridge but only deceased alleged to have been sustained injuries after having fell in the water. The aforesaid act *prima-facie* establishes guilt of the applicant. In view of above, no case for relief is made out.

8. The application as such stands rejected.

[S. G. DIGE, J.]

[NITIN W. SAMBRE, J.]