

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

**INTERIM APPLICATION NO. 4206 OF 2023
IN
CRIMINAL APPEAL NO. 934 OF 2022**

Javed Bablu Pathan ...Applicant

Versus

State of Maharashtra ...Respondent

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Mr. Saurabh Desai i/by Mr. Ranjeet Pawar, Advocate for the Applicant.

Mrs. M.H. Mhatre, APP for the Respondent – State.

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**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 13th DECEMBER, 2023.

P.C.:

1. This is an application for suspension of sentence and grant of bail during the pendency of appeal.

2. The case of the prosecution is that there was matrimonial discord between the Petitioner and his wife (deceased). The alleged incident took place on 24 June 2017. It is the case of the prosecution that the accused had strangled his wife and killed her.

3. Learned Advocate for the applicant submitted that the entire case is based on circumstantial evidence as there is no eye witness to the incident. The applicant had offered plausible explanation for cause of death of the victim. Although the neighbours, who has been examined as witness stated that there were matrimonial differences between the applicant and the deceased, there is no evidence to indicate that there was any quarrel between the deceased and the applicant on the date of incident. The applicant is in custody for a period of about six and half years.

4. Learned A.P.P. submitted that there is sufficient evidence against the applicant. Although there is no eye witness to the incident, there are strong circumstances to indicate that the victim was killed by the applicant. The medical evidence supports the prosecution case. The victim had suffered several injuries on her person. Cause of death is by strangulation.

5. We have perused the evidence on record. Apparently the applicant and the deceased were residing together. The applicant was required to give explanation in accordance with Section 106 of the Evidence Act with regards to the cause of death of the victim. The victim had suffered several injuries. There were

ligature marks on her person. She died on account of strangulation. Considering these circumstances, no case is made out for suspension of sentence and grant of bail.

ORDER

- i) Interim Application No.4206 of 2023 is rejected and disposed of accordingly;
- ii) Hearing of Appeal is expedited.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)