

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.311 OF 2023

IN
CRIMINAL APPEAL NO.179 OF 2023

Pravin s/o Khushalrao Nilkanth

Vs.

State of Maharashtra, through its Police Station Officer, Police Station, Karanja,
District Washim

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. D. Chande, Counsel for applicant.
Mr. A. M. Kadukar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/06/2023

1. By this application, the appellant is seeking suspension of sentence and grant of bail to him. The appellant was prosecuted for the offence punishable under Sections 302 and 342 read with Section 34 of the Indian Penal Code. After appreciation of the evidence, trial Court held that there was no intention to cause the death of the deceased, however the appellant was having knowledge that death would be caused, and held the present appellant guilty for the offence punishable under Section 304 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for six years and fine of Rs.5000/-. The appellant has already paid the fine amount before the trial Court.

2. Learned Counsel Mr. Chande for the appellant submitted that the trial Court had not considered the evidence on record. The deceased has sustained the injury as he fell down on stony surface and sustained the injury. The medical report shows that he has not sustained any external injury. The learned trial Court has completely ignored this evidence. The appellant has every chance of success in the present appeal. However, it will take its own time for final decision. In the meantime, if the sentence is executed then appeal will become infructuous.

3. The said application is opposed by the State on the ground that there is ample evidence against the present appellant to connect him with the alleged offence. The learned trial Court has already taken the lenient view. Hence, application deserves to be rejected.

4. Having heard both the sides. Perused the impugned judgment. From the reasons recorded by the trial Court it is apparent that, no external injury was sustained by the deceased. Deceased was brought to the hospital as he has complaint the abdomen pain. There was swelling on his abdomen and due to the said injuries he died. The medical report further shows that except the injury on his abdomen and scrotum there was no external injury. Thus, the trial Court come to the conclusion that considering the role of the present

appellant, there was no intention to kill the deceased, however there was a knowledge that the act of the accused would cause the death of the deceased. Admittedly, the appeal will take its own time for final decision and if sentence is executed then appeal will become infructuous. Considering the same, application deserves to be allowed. Accordingly, I proceed to pass following order.

(i) The execution of the sentence is hereby suspended till conclusion of the appeal.

(ii) The appellant is hereby released on bail on executing PR bond of in the sum of Rs. 25,000/- with one surety in the like amount.

(iii) The appellant shall remain present before the trial Court on 5th of every month and trial Court shall record his presence.

(iv) The appellant shall furnish his mobile/phone number, along with his address with address proof, before the trial Court. Additionally the appellant shall submit the names of his two nearest relatives along with their address with address proof,

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)