



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

CRIMINAL APPLICATION (APPA) NO.688/2024 IN
CRIMINAL APPEAL NO.399/2024

Samayya Anklu Durgam (In Jail) Vs. The State of Maharashtra, thr. Its P.S.O., P.S.
Reguntha, Tah. Sironcha, Dist. Gadchiroli

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

Court's or Judge's orders

Shri Samir S. Das, Advocate (Appointed) for appellants
Ms M.H. Deshmukh, APP for non-applicant/State

CORAM : SMT. M.S. JAWALKAR AND
M.W. CHANDWANI, JJ..

DATED : 21/11/2024

1. The applicant has filed an appeal against the judgment of conviction passed by the Session Court, Gadchiroli, in Session Case No.23/2020, holding that the applicant has convicted for the offences punishable under Section 302 of the Indian Penal Code and sentenced him to suffer imprisonment for life and to pay a fine of Rs.25,000/-. The applicant prays for suspension of sentence pending the appeal.

2. The contention is that there is a delay of 4 hours in lodging the First Information Report and there are discrepancies in the disposition of PW-4 Rajeshwari vis-a-vis PW-5 Monica with regard to the part of body on which Monica sustained injury. There is delay in recording the statement of Monica. Discovery of weapon at the instance of accused is also doubtful. The appeal will take considerable time and seek bail pending the appeal conversely.

3. The learned APP Mrs. Deshmukh appearing on behalf of the State, objected the application on the ground

that there are eyewitnesses to the incident. One of the witness Monika sustained injury, which shows her presence on the spot. According to her, the applicant who was convicted for murder, committed the present crime, when she was on bail pending the appeal. Therefore, if applicant is released, there are chances again she may repeat the similar offence.

4. Having heard the respective Counsel and having gone through the judgment and deposition of the witnesses, it transpired that there was dispute between the husband of deceased Rajakka and the applicant over agriculture land. Both were claiming that the land belongs to them. On fateful date, on 03/11/2019, when the deceased Rajakka along with PW-4 Rajeshwari and PW-5 Monika were sowing in the field, the applicant along with his wife came there and claimed that the agriculture field belongs to him. When deceased confronted with the statement that said land is purchased by paying money, the applicant unleashed blow of axe on the head and chest of Rajakka. She fell down on the ground. The accused gave another blow on her neck. When PW-5 Monika tried to intervene, accused also gave blow on her head and waist. To save her, PW-4 Rajeshwari ran away from the spot and informed the incident to her father-in-law i.e. husband of the deceased. The matter came to be reported to the police.

5. It appears that the learned Trial Court relying on the version of PW-4 Rajeshwari and injured witness PW-5 Monika, couple with the fact of recovery of axe at the

instance of applicant and seizure of blood stained clothes of the applicant, recorded the finding of conviction by passing the impugned judgment.

6. Perusal of impugned judgment as well as deposition of the witnesses, shows that PW-4 and more particularly PW-5 and injured witnesses of the incident are eye witnesses to the incident. It appears that the alleged incident occurred in the agriculture field of PW-4 for lodging the First Information Report went to the Police Station at Kotapalli and the report has been lodged at Police Station Reguntha, Taluka Saroncha, District Gadchiroli. The information was given by PW-4 Rajeshwari in Telugu, which was translated in Marathi. Perhaps these are the reasons, the First Information Report came to be lodged at 8 p.m. The discrepancy, which has been shown by the applicant between PW-4 Rajeshwari and PW-5 Monika is minor discrepancy. The witnesses gave the details of the incident. *Prima facie* it appears to us that there is no patent infirmity in the impugned judgment that rendered the order of conviction erroneous.

7. That apart, we cannot ignore the fact that the present crime has been committed by the applicant when he was on bail after sentence in another appeal of earlier crime was suspended. Considering these aspects, no case is made out for suspension of sentence pending the appeal. Accordingly, the application is rejected.

(M.W. CHANDWANI, J.)

(SMT. M.S. JAWALKAR, J.)