

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

911 CRIMINAL APPLICATION NO. 821 OF 2023
IN APEAL/105/2024

Vasant Rodoba Pawar

....Applicant

Versus

The State of Maharashtra

.....Respondent

Advocate for Applicant : Shri. Mahesh K. Bhosale

Addl. PP. for the Respondent / State : Shri. S. D. Ghayal

CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

Dated : February 6, 2024

PER COURT :-

. Heard Shri. Mahesh K. Bhosale, learned Advocate for Applicant and Shri. S. D. Ghayal, learned Addl. PP. for the State and perused the Paper-book.

2. This is the Application for suspension of substantive sentence awarded by the learned Additional Sessions Judge, Kopargaon, Dist. Ahmednagar in Sessions Case No.36/2017 vide Judgment and order dated 28.03.2019 thereby convicting the Applicant / Appellant for the offence punishable under Section 302 of the Indian Penal Code and sentencing him to suffer Imprisonment for Life and to pay / deposit fine of Rs.5,000/-, in default to suffer Rigorous Imprisonment for three months.

3. The crime is registered at the instance of the mother of the child. The child aged about 5 years died due to drowning. The Applicant / Appellant is the stepfather of the deceased son. From the evidence available on record, it is clear that the son fell in the well which was near their residential house. The evidence on record show that the well was constructed till ground level. Our attention is drawn to the cross-examination of the Informant (mother of deceased child) wherein she admitted that, in the statement recorded under Section 164 of the Code of Criminal Procedure, she stated that she has incorrectly implicated the Applicant due to quarrel with her first husband. The Applicant / Appellant is behind the bars for more than 6 years. There is no possibility that the Appeal would come up for final hearing in the near future. In this view of the matter, we proceed to pass the following order:

ORDER

- (i) The Application is allowed.
- (ii) The substantive sentence awarded by the learned Additional Sessions Judge, Kopergaon, Dist. Ahmednagar in Sessions Case No.36/2017 vide Judgment and order dated 28.03.2019, on the Applicant / Appellant, namely, Vasant Rodoba Pawar, is suspended during the pendency of the present Appeal.

(iii) The Applicant / Appellant be released on bail on furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only), with one surety in the like amount.

(iv) Bail before the Trial Court.

(v) The Applicant / Appellant shall not change his residential address without intimation to the concerned Police Station.

4. Criminal Application stands disposed of accordingly.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP