

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.728 OF 2018

IN

CRIMINAL APPEAL NO.137 OF 2018

Savita w/o. Somnath Chavan ... Applicant

Versus

The State of Maharashtra. ... Respondent

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Shri. S. S. Gangakhedkar, Advocate for the Applicant

Shri. S. D. Ghayal, Addl. P P. for the Respondent / State.

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

DATE : 14.11.2024

PER COURT :

. This is the Application for suspension of substantive sentence imposed by the learned Sessions Judge, Jalgaon in Sessions Case No.18 of 2017 on the Applicant for the offence punishable under Sections 302 and 201 of the Indian Penal Code and sentenced to suffer Imprisonment for Life with fine of Rs.500/- (Rs. Five Hundred), in default, to suffer Rigorous Imprisonment for 6 (Six) months and Rigorous Imprisonment for 3 (Three) years with fine of Rs.500/- (Rs. Five Hundred), in default, to undergo Rigorous Imprisonment for 3 (Three Months), respectively.

2. The case of the Prosecution as seen from the Impugned

Judgment is reproduced as it is :-

2.1. That on 26/09/2016 one Ravindra Subhash Patil, resident of Shindi gave intimation (Khabar) to Chalisgaon Rural Police Station that he is Police Patil of village Shindi. On 26/09/2016, at about 01.15 a.m., the Sarpanch of village Gorakh Appasaheb Rathod informed him on mobile that one Somnath Laxman Chavan from Shindi Tanda died out of strangulation at his residence. Therefore, he went along with his uncle Ex-Police Patil, Shankar Rangnath Patil to the residence of Somnath and he verified that Somnath was dead and then he went to police station and gave intimation about death of Somnath. On the basis of his intimation A.D. No.59/2016 was registered. Then in the investigation of said A.D., API Walhe went to Rural Hospital. He found dead body of deceased in Rural Hospital, Chalisgaon. He has drawn inquest panchanama in presence of two panchas. There were found two ligature marks around the neck of the deceased, one was of 6 inches length and 1 cm. in width and another was completely around the neck of 11 inches having half inch width. Then he filled up inquest form and forwarded the dead body along with his requisition, inquest form and inquest panchanama for post-mortem. Thereafter, the clothes on the person of the deceased were handed over to him

by Head Constable, who was accompanying the dead body. He has drawn seizure panchanama of the clothes of the deceased in presence of panchas. After postmortem, he handed over the dead body to the relatives of deceased. Then he visited the spot and had drawn the spot panchanama in presence of panchas. Said spot was consisting of three rooms having tin roof to it. The first room was the kitchen of 4 ft. 11 inches height. There were utensils in the said room. The second room was of 5 ft. 7 inches height and third room was of 5 ft. 5 inches height. In the middle of third room support was given with wooden beam (Khamb) to the roof and one 16 ft. long rope was lying in the said room. He has seized said rope and he has prepared the spot panchanama in presence of two panchas. Then he received the advance death certificate of the deceased wherein the Medical Officer has opined that the death was caused due to strangulation. Thereupon API Walhe lodged report on behalf of State and registered the crime against the present accused. The investigation was handed over to Police Inspector Gaikwad on the registration of crime. During investigation he has arrested the accused Savita Somnath Chavan, the wife of deceased. Then he has recorded statements of the witnesses in the vicinity of spot. When the accused was in the custody of police she gave memorandum on 03/10/2016 that she had concealed in the kud wall of her house.

Accordingly, her memorandum was recorded in presence of panchas. Then as per her memorandum she led the police and panchas to her residence and handed over one strip of cloth, which was concealed in kud wall. On seizure of the same the police have drawn seizure panchanama. Then, during investigation, the Investigating Officer took the said cloth strip, which was seized on memorandum of accused, to the Medical Officer. On producing the said strip before the Medical Officer, his opinion in respect of injuries around the neck has been obtained. After completing the investigation the Investigating Officer has submitted Charge-sheet against the present accused under Sections 302 and 201 of I.P. Code in the Court of J.M.F.C., Chalisgaon.

3. It is submitted by learned Advocate for the Applicant that the Applicant is a lady and she has been convicted for the Murder of her husband, who was in the habit of drinking liquor. He submits that she is behind the bars from 27.09.2016 and she is having one minor child around 14 years of age. He submits that though Record and Proceedings is received, the Paper-book is not yet ready and therefore, there is no possibility that the Appeal would be finally heard in the near future. He submits that the Application be allowed.

4. The Application is opposed by learned Addl. P. P. He submits that the learned Trial Court has rightly appreciated the evidence and convicted the Applicant. He submits that no case of bail is made out and the Application be rejected.

5. The Applicant, at the time of the offence was 31 years of age. The case is based on circumstantial evidence. The Applicant is having minor child, who is being taken care of by someone else. She is behind the bars for a period more than 8 (eight) years. Though Record and Proceedings are received, it is without the Paper-book. Since the Paper-book is not ready, the Appeal is not likely to be heard finally in the near future. In these facts of the case, we proceed to pass the following order.

ORDER

- (i) The Criminal Application is allowed.
- (ii) The substantive sentence imposed by the learned Sessions Judge, Jalgaon in Sessions Case No.18 of 2017 on the Applicant - Savita w/o. Somnath Chavan for the offence punishable under Sections 302 and 201 of the Indian Penal Code is suspended during the pendency of the present Appeal.
- (iii) The Applicant 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 Criminal Application stands disposed of accordingly.
- (vi) Record and Proceedings be sent back to the learned Trial Court for the preparation of the Paper-book.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

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