



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

**CRIMINAL APPLICATION NO.1130 OF 2024 IN
CRIMINAL APPEAL NO.254 of 2024**

Rahul Suresh Bhosale

... **APPLICANT**

VERSUS

The State of Maharashtra

... **RESPONDENT**

.....
Mr. N.B. Narwade, Advocate for applicant

Mrs. Kalpalata Patil Bharaswadkar, A.P.P. for respondent
.....

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

DATE : 1st OCTOBER, 2024

ORDER :

This is an application for suspension of sentence awarded by learned Additional Sessions Judge, Shrigonda in Sessions Case No.4/2022 vide judgment and order dated 17/1/2024, convicting the applicant/ appellant for the offence punishable under Sections 302 and 324 of the Indian Penal Code.

2. In the nutshell, the case of the prosecution is that, deceased Dipali was wife of the applicant/ appellant. She was

residing with her parents due to matrimonial discord. On 10/10/2021, the applicant/ appellant slapped her when she was in the shop, where she was working, on the point of demand of mobile. Thereafter on 22/10/2021, in the morning at 9.00 a.m., when Dipali was proceeding to her workplace i.e. shop along with her sister Lata, the applicant/ appellant stopped her and assaulted her with knife. She suffered serious injuries, to which she succumbed. The matter was reported to the police and crime came to be registered against the applicant/ appellant for the offences punishable under Sections 302 and 307 of the Indian Penal Code. After the trial, the aforesaid judgment and order came to be passed.

3. It is submitted by learned Advocate for the applicant/ appellant that, there are minor omissions/ contradictions in the testimony of the eye witness. He submits that, the applicant/ appellant is behind the bars for about 2 ½ years. He submits that, the applicant has good case on merits and the eye witness is interested witness. He submits that, the application be allowed.

4. The application is opposed by learned A.P.P. She submits that, the case is based on the testimony of eye

witness, and minor omissions/ contradictions does not matter. She submits that the application may not be allowed.

5. There is no dispute that the case is based on the testimony of the injured eye witness, who was along with the deceased at the relevant time. The evidence shows assault by the applicant/ appellant on the deceased, who was his wife. The post mortem report shows following injuries:-

- (1) Incised wound over left side of neck of size 12 x 5 x 2 cm. over neck extending from thyroid cartilage to nape of the neck. All the vital structures such as left carotid vessel (artery) jugular vein and sternocleidomastoid muscle are cut.
- (2) Incised wound of size 3 x 1 x 0.5 cm. just 4 cm. below the first wound over left shoulder.
- (3) Punctured wound over right breast at 4 O'clock position.
- (4) Incised wound over the left distal interphalangeal joint of size 2 cm. x 0.5 x 0.5 cm.
- (5) Incised wound over left knee joint of size 3 x 0.5 x 0.5 cm.

The cause of death, as per the post mortem report,

is due to cardio respiratory arrest due to hypovolumic shock because of rupture carotid artery.

6. In this view of the matter, in our considered view, this is not the fit case for suspension of sentence. Hence, the application is dismissed.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-