



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3490 OF 2023
IN
CRIMINAL APPEAL NO. 692 OF 2023

Narendra Eknath Bhadane @ Pappu Shete

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. V.R. Dhorde, Advocate for applicant

Ms. U.S. Bhosale, A.P.P. for respondent - State

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CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ
DATE : 02nd MAY, 2024

PER COURT :

1. This is an application for suspension of sentence imposed by Additional Sessions Judge, Dhule vide judgment and order dated 30th May, 2023 in Sessions Case No. 142 of 2019, thereby convicting the appellant for the offence punishable under Section 302 of the Indian Penal Code.

2. In short, the case of prosecution is that the deceased and the applicant were in love relation for many years before marriage of the deceased. The deceased got married on 23rd March, 2019 with some another person. On the very next day of her marriage, the deceased came to her parent's house for some rituals. On the next day i.e. 25th March, 2019, the

deceased left her parent's house by saying that she was going to the village for having tea. However, she did not return. The deceased was found dead in Room No.109 of Sangita Lodge situated at Shirpur Phata. The distance between the house of her parents and the lodge is about 3-4 kms. During investigation it was revealed that the applicant and deceased shared the said room. It is the case of prosecution that the applicant killed the deceased, locked the room from outside and threw the key. On appreciation of the evidence on record, the trial Court convicted the applicant, and therefore, present application.

3. It is submitted by learned counsel for the applicant that there is no documentary evidence to show that the applicant had booked the room in the said lodge where the dead body was found. The caretaker of the lodge, who according to the prosecution informed the owner of the lodge that the applicant was given the said room, is no more. It is further submitted that the another piece of evidence is the seizure of mobile phone of the applicant, wherein two photographs, one selfie in which the applicant and the deceased are seen together and another of the deceased lying dead in the room, were stored. He submits that except this there is no evidence against the applicant, therefore, the sentence may be suspended.

4. The application is opposed by learned A.P.P. She submits that though the owner of the said lodge did not support the prosecution case,

evidence show that the room was taken by the applicant on the day of the incident. She submits that the cell phone of the applicant was seized wherein the above referred photographs were found. She further submits that apart from above evidence there is evidence in the nature of extra judicial confession made by the applicant to the mother and husband of the deceased and to his friend. For the said confession, the prosecution is relying on the CDRs of cell phone of the applicant and the concerned call receivers. She submits that the application may be rejected.

5. We have perused the evidence on record. Though the evidence of lodge owner that the room was given to the applicant is hearsay as the caretaker of the lodge, who gave the information to him, was no more and never examined before the trial Court. The version of the lodge owner that the applicant informed him that he had thrown the key of Room No.109 of his lodge, near the motorcycle and it was later on found by him in the garden has not been challenged in the cross-examination. The evidence further show that the Investigating Officer seized the mobile phone of the applicant from his person in which the above referred photographs were stored. The evidence on record further show that the first photograph, which is a selfie showing the applicant and deceased together, was clicked at 09:51 a.m. on the fateful day and the second photograph of the deceased lying dead on the fateful day shows time of 11:19 a.m. This show that soon before the incident, the applicant was in the company of the deceased.

6. In this view of the matter, in our considered view, this is not a fit case for suspension of sentence. In the result, application stands rejected.

SSD (NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)