

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 4196 OF 2023
IN
CRIMINAL APPEAL NO. 914 OF 2017**

Vishal Kisan More
Age: 29 years, R/o, Shirgaon,
Tal: Tasgaon, Dist: Sangli .. Applicant

Versus

The State of Maharashtra
(At the instance of Karad Taluka
Police Station, Dist: Satara) .. Respondent

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Mr. Aniket Nikam i/b Mr. Aashish Satpute, for the Applicant.
Ms M. M. Deshmukh, APP, for the State.

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**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 3rd JULY, 2024**

P.C:-

1. The applicant herein has filed the present Interim Application for suspension of sentence and enlargement on bail during the pendency of the Appeal filed by him. The applicant has been convicted for the offence punishable under Section 302 of the Indian Penal Code, by the Additional Sessions Judge, Karad by his Judgment and Order dated 03.10.2017.

2. According to the applicant, he is in the prison since his

arrest on 13.10.2014. The applicant had filed Criminal Application bearing No. 1527 of 2017 for bail pending the Appeal, which has been dismissed as withdrawn by order dated 27.08.2018, as this Court was not inclined to grant bail. This is the second Interim Application for bail during the pendency of the Appeal. This Application has been filed because of his long incarceration in the prison and awaiting disposal of the present Appeal.

According to the applicant, the sentence of conviction imposed by the learned Judge is not based on evidence and it is recorded overlooking the glaring contradictions, omissions as well as admissions. The applicant has been falsely implicated in the crime.

3. We have heard the learned counsel for the applicant as well as the learned APP for the State.

The applicant has placed on record the notes of evidence. PW 10 Prashant Vijay Taralkar is the witness for the prosecution, who was present on the scene of offence. He was working as a Police Naik. While he was on patrolling duty at Surli Ghat area on 12.10.2014 at about 08:00 p.m., while he was coming down from the Ghat section towards Karad, he heard shouts of a woman and, therefore, he parked the motorcycle on which he was riding. With the help of torch, he tried to see through the valley. While he was trying to locate the sound, he saw one woman in the pool of blood and one man was standing besides the said woman (deceased). PW 10 stopped one jeep vehicle in the Ghat, in which one Satish Vetal,

who was alongwith his friends was passing by. PW 10 informed them about the incident and went to the spot in the valley.

When they reached the spot, the person standing near the woman was trying to run away; he was caught by PW 10. On inquiry, he told his name as Vishal Kisan More and the said injured woman as his wife. The said person disclosed that there was quarrel on the road in Ghat section between him and his wife(deceased), therefore, he pushed her in valley and she fell on the stone and he also threw stone on her head. The said woman was brought from the valley and taken to the hospital by Satish Vetel and his friends. Thereafter, her relatives were informed. The FIR was registered, on completion of investigation trial commenced and the applicant has been convicted.

4. The story of the prosecution is proved by the deposition of PW 10, and is also supported by the testimony of PW 2, Vijay Eknath Kalambe, who was also accompanying his other friends Satish Vetel and Sachin Mane. PW 2 has also supported the version of PW 10, Prashant Taralkar about the presence of the accused on the spot who was trying to run away. He has identified the accused present in the count to be the same person.

5. PW 16, Satish Pandurang Vetel has also narrated the same story, there is no discrepancy or variance in the version of all the three witnesses i.e. PW 2, PW 10 and PW 16. All of

them were present on the scene of offence from where the present applicant accused has been apprehended. Therefore, the presence of the accused on the scene of offence is not at all disputed. The panchanama of the said spot has been conducted on the next day. PW 2 had accompanied API, Swapnil Lokhande and PW 10, Vijay Taralkar for conducting spot panchanama as panch witness. During the panchanama, the bangles, one goggle, ear rings, chappal, soil with blood and ladies scarf of the deceased have been seized alongwith the motorcycle of the accused. Some sharp edged stones with blood stains have been seized from the scene of offence and those have been sent to the chemical analyzer.

6. It is proved that the accused has been apprehended; from the scene of offence where the deceased was lying in the pool of blood. When PW 10 alongwith other witness reached the place where the accused was standing and was stopped from running. The applicant has been arrested vide arrest panchanama dated 13.10.2014, which is at Exhibit 21, and proved through the panch witness PW 3 Lahu Shivaji Patil.

7. The postmortem report is at Exhibit 24. In the postmortem report the cause of death has been recorded as death due to head injury, associated with subdural haematoma in left parietal region. There are other injuries on the parts of the body. The doctor, PW 5 has been examined who has conducted the postmortem. He has supported the cause of death given in the postmortem report. In his cross-examination, nothing adverse could be elicited from him.

8. On hearing the applicant, we do not find that the applicant has made out a *prima facie* case in his second Application for enlargement on bail during pendency of the Appeal. The accused has been apprehended on the spot itself immediately after he has committed the offence, when the body of the deceased was still lying before him in an injured condition. The same is also supported by the other witnesses and the postmortem report.

On going through the Judgment and Order and the brief notes of evidence, we do not find that the applicant has fair chances to succeed in the Appeal. Thus the applicant has failed to made out a *prima facie* case for grant of bail and suspension of sentence. This being his second Application, no new ground is made out by the applicant, we do not find any merit in the Application.

In view of the aforesaid facts, we do not find merit in the present Application of the applicant. Hence the Interim Application stands rejected.

Considering that the Appeal of the applicant is pending since 2017, we direct that the Appeal be expedited.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)