

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

**INTERIM APPLICATION NO.1639 OF 2023
IN
CRIMINAL APPEAL NO.353 OF 2023**

Govind Barkya Pachalkar	.. Applicant
vs.	
The State of Maharashtra	.. Respondent

Mr. Pradeep Kumar Pardeshi, Advocate Appointed for the Applicant.
Mr. S. V. Gavand APP for the Respondent-State.

**CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 9th FEBRUARY, 2024

P. C.:-

- 1) This is an Application for suspension of sentence and releasing the Applicant on bail.
- 2) It is the prosecution case that the Applicant was addicted to liquor and used to demand money from his wife Mrs.Kama Pachalkar (deceased) for drinking liquor. Applicant was not doing much work to maintain his family. Applicant and deceased were having five children out of the wedlock. The deceased used to do labour work. Applicant used to demand money from the deceased for drinking liquor. On the date of incident i.e. 21st March 2014, the Applicant demanded money for drinking

liquor from his wife (deceased) to which she refused. Applicant got angry and left the house. He again came at about 12 noon in the house and demanded money from the wife to which she again refused. Applicant therefore in a fit of anger took a kerosene can from the house and poured it on the person of the deceased and ignited it and ran away from the scene of offence. Mrs.Kama Pachalkar extinguished the fire at her own and gave call to the neighbours. The neighbours took her to the hospital. She succumbed to injuries on 8th April 2014. The Medical Officer attached to the Rural hospital, Virar has issued death certificate opining that, the death of Mrs.Kama Pachalkar was caused due to septicaemic shock due to 75 to 80% mixed burns.

3) The Applicant came to be arrested on 25th May 2014, and since then he is behind bars. In view of the facts mentioned above, we *prima facie* find substance in the contention of learned Advocate for the Applicant that, the act alleged against the Applicant may fall within purview of Section 304 (Part II) and not under Section 302 of the I.P.C.

4) In view of above we are of the opinion that, during pendency of present Appeal the substantive sentence imposed upon the Applicant can be suspended and he can be released on bail.

4.1) Hence, the following order :

- (i) Applicant be released on bail in Sessions Case No.108 of 2014, arising out of Crime No.134 of 2014 of Virar Police Station, Taluka Vasai, District Thane on his furnishing P.R. bond of Rs.25,000/- with one or more local sureties in the like amount.
- (ii) After his release from jail and during pendency of the Appeal, Applicant shall attend Virar Police Station, Thane on every first Monday of the month between 10.00 am and 12 noon, initially for a period of one year and thereafter on every first Monday of every third calendar month i.e. four times in a year between 10.00 am and 12 noon.
- (iii) Applicant shall make himself available at the final hearing of the Appeal.
- (v) Application is allowed in the aforesaid terms.

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)