

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

**INTERIM APPLICATION NO.2339 OF 2023
IN
CRIMINAL APPEAL NO.824 OF 2023**

Hiraman Nivrutti Bendkule	.. Applicant
vs.	
The State of Maharashtra	.. Respondent

Ms. Vrushali Maindad, Advocate appointed for the Applicant.
Mrs. A. A. Takalkar APP for the Respondent-State.

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

DATE : 18th APRIL 2024

P. C.:-

- 1) This is an Application for suspension of sentence and releasing the Applicant on bail.
- 2) Heard Ms.Maindad, learned Advocate for the Applicant and Mrs.Takalkar, learned A.PP for the Respondent-State.
- 3) The Applicant is convicted under Sections 302 of I.P.C. by the learned Additional Sessions Judge, Nashik in Sessions Case No.123 of 2020, for committing murder of his wife namely Smt. Kajal in the intervening night of 25th January 2020 and 26th January 2020 in his house.
- 4) It is prosecution's case that, the deceased Smt.Kajal was legally wedded wife of the Applicant. Two children namely Miss.Vaishnavi and

Master Vaibhav were born from the said wedlock and on the date of incident the children were aged about 4 years and 3 years respectively. As the Applicant did not like his wife, there used to be quarrels between them. On earlier two occasions, the Applicant had assaulted Smt.Kajal and therefore she had left matrimonial house and went to house of her parents.

5) That, on 25th January 2020, at about 7.00 pm the Applicant came home and had a quarrel with deceased Smt. Kajal and thereafter he went to sleep. The deceased woke him up for dinner because of which the Applicant got terribly annoyed and abused her, therefore the deceased along with the children went to sleep in the kitchen. In the morning, at about 10.00 am dead body of Smt. Kajal lying in a pool of blood, was noticed by Applicant's mother namely Smt. Kalpanabai (PW7). The people in the adjoining houses gathered at the scene of offence and noticed that the Applicant was inside his house and an iron spade was lying thereof. Dr.Anand Vilas Pawar (PW11) conducted post mortem on the dead body of Smt.Kajal and found various injuries on her person including two depressed skull fractures as injury Nos.1, 2 and 3 in Column No.17 of the post mortem report. Apart from the fact that, there is strong circumstance of last seen together i.e. the Applicant was in the company of the deceased in the said night, the Applicant has also given an extra judicial confession to PW2 and PW4. The Applicant has not offered any explanation as to how the

deceased suffered such grave injuries in the intervening night of 25th January 2020 and 26th January 2020, in his statement recorded under Section 313 of the Cr.P.C. *Prima facie* it appears that, the presumption as contemplated under Section 106 of the Indian Evidence Act is against the Applicant.

5.1) The medical evidence produced by the prosecution *prima facie* indicates that the Applicant had committed murder of deceased Smt. Kajal in a brutal and dastardly manner. After taking into consideration the evidence available on record, we are of the view that the Applicant does not deserve to be released on bail during pendency of the Appeal.

6) Application is accordingly rejected.

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)