



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [APPA] No.402 of 2024 in Criminal Appeal No.216 of 2024

Dilip s/o Rambhau Khapekar

vs.

State of Maharashtra,, through P.S.O., Koradi, Nagpur

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. S.D. Dharaskar, Advocate for the Appellant.

Mr. N.H. Joshi, A.P.P. for the Respondent/State.

CORAM: SMT. M.S. JAWALKAR AND M.W. CHANDWANI, JJ.

DATE : 3rd DECEMBER, 2024.

By the judgment of conviction dated 25/01/2024, the appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for life and to pay fine of Rs.5,000/-. Pending the appeal, the appellant seeks suspension of sentence and releasing him on bail.

02. The appellant has been convicted for committing murder of his own wife by stabbing her with knife, behind the betel leaf shop (Panthela) of Ajay Wamanrao Barai (PW-1). The incident has been witnessed by PW-1. The trial Court relying on the version of PW-1 convicted the appellant for committing murder of his wife.

03. The contention is that the trial Court has not appreciated the evidence of PW-1 on the touchstone of the cross-examination, wherein he has given vital admission that when he heard screaming, the appellant was in his Panthela. According to him, this not only creates doubt on the story of the prosecution, but also excludes the possibility of committing murder by the appellant. According to him,

even the version of the Investigating Officer goes to show that he was only informed about lying of dead body of the deceased in the bushes behind the said Panthela. His submission is that there is a chance of succeeding in appeal and since the appeal may not be come up for hearing for a considerable time, substantive sentence shall be suspended and the appellant be released on bail pending the appeal.

04. On the contrary, the learned A.P.P. has vehemently submitted that the trial Court has rightly appreciated the version of PW-1 and other circumstances including an attempt to commit suicide by the appellant after committing the murder of his wife. There is a motive behind commission of the offence.

05. Having heard the learned Counsel for the respective parties and having gone through the impugned judgment and depositions, it is transpired that the learned Sessions Judge has solely relied on the version of PW-1, who in his examination-in-chief has deposed about witnessing the incident while assaulting the deceased by the appellant. However, it appears that there are vital admissions given by this witness contrary to the case of the prosecution, which require due consideration at the stage of final hearing and therefore, there is an arguable point in this appeal.

06. The appellant has been convicted for life imprisonment. The appeal may not be taken up for final hearing in near future. In case of acquittal, the position will be irreversible with regard to his incarceration in the jail.

07. Considering this aspect, we find that a case is made out for exercising the discretion for suspending the sentence. Hence, this order.

ORDER

- I.** Pending the appeal, substantive sentence passed by the learned Additional Sessions Judge in Sessions Case No.822/2019 vide judgment and order dated 25/01/2024 is hereby suspended
- II.** Meanwhile, the appellant be released on bail on his furnishing a P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount before the trial Court.
- III.** It is directed that appellant shall report to the Police Station, Koradi, District Nagpur on first Monday of every month in between 10:00 a.m. and 12:00 p.m.
- IV.** The appeal be processes for further action.
- V.** The application is allowed and disposed of accordingly.

(M.W. Chandwani, J.)

(Smt. M.S. Jawalkar, J.)

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