



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (APPA) NO. 671/2024**  
**IN**  
**CRIMINAL APPEAL NO. 381/2024**

Girish @ Shrikant Mahadeorao Gondane Vs. State of Maharashtra

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

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Shri R.M. Daga, Advocate for applicant/applicant  
Ms S.V. Kolhe, APP for respondent/State

**CORAM : SMT. M.S. JAWALKAR AND**  
**M.W. CHANDWANI, JJ..**  
**ORDER RESERVED ON DATED : 19/11/2024**  
**ORDER PRONOUNCED ON DATED : 26/11/2024**

Heard.

2. By this application, the applicant is seeking suspension of execution of sentence passed in Sessions Case No. 227/2023, dated 29/04/2024, whereby, the accused has been convicted for the offence punishable under Section 302 of the Indian Penal Code. The maximum sentence imposed by the trial Court is to undergo imprisonment for life for the offence punishable under Section 302 of the IPC along with fine.

3. This application is moved by the accused Girish @ Shrikant Mahadeorao Gondane.

4. It is prosecution case that the applicant was

married on 04/07/2021 with Pratiksha and after marriage they were residing at village Maholi. After marriage, Pratiksha got pregnant and was carrying seven months pregnancy, therefore, her mother brought Pratiksha to her house. On 30/12/2022, Pratiksha delivered a male child at Medical College and Hospital, Nagpur. On 31/12/2022 appellant came to Medical College and Hospital, where Pratiksha and her mother were present along with newly born child. The accused was suspecting towards character of Pratiksha, therefore he lifted the child i.e. his son in one hand and thereafter banged child on the ground, due to which the infant get severely injured and died. Hence, on the report of Jivankala Meshram (PW 1) i.e the mother of Pratiksha, crime was registered at police station Ajani, Nagpur vide Crime No. 841/2022 against the appellant. The Trial Court found applicant guilty and sentenced him imprisonment for life by judgment dated 29/04/2024.

5. It is the contention of the applicant that the applicant took his newly born child/son on his lap and accidentally child had fallen on the ground and due to which, the child sustained injuries and later on succumbed to it. It is further submitted that as per the version of PW 1 – Jivankala that applicant has deliberately and forcefully banged down the child on the floor, is not appearing in her report Exh.10.

6. It is further contended that the incident took place on 31/12/2022, whereas the newly born child

succumbed to injuries on 11/01/2023 i.e. after 10 days. This fact also requires consideration as the death was not instantaneous and the child treated prior to his death. Hence, praying for the suspension of sentence.

7. It is the contention of the learned APP for State that the testimony of P.W.1 to 3 are in total corroboration with each other. There are absolutely no material omissions or contradictions by which any doubt can be created upon the evidence adduced by the prosecution witnesses and therefore, the only conclusion can be drawn by way of the said evidence is that the accused lifted the child up and had thrown him on the grounds causing injuries to the infant which resulted into his death on 11/01/2023. The learned Trial Court has rightly taken this fact into consideration and accordingly passed an appropriate order which needs to be confirmed by this court. Hence, prayed for the rejection of application.

8. We have heard both the parties. Perused copies of deposition. We also gone through the judgment of Trial Court. After considering the contention of the parties, we are of the *prima facie* opinion that District Judge has failed to consider the cross of the witnesses specifically PW 1 and PW 2. PW 1, mother-in-law stated that marriage of accused and his wife was love marriage. Expenses towards medical treatment of wife is incurred by accused. He used to help in household work to wife Pratiksha. As advised in Dafrin Hospital, accused shifted his wife to Nagpur for treatment

as her hemoglobin was very low. Similarly PW 2, wife also admitted that since she was pregnant, accused was taking care of her and used to take to doctor also. He registered her name. She has also admitted that as her hemoglobin was low, she was advised to go Medical Hospital, Nagpur and accordingly, her husband i.e. accused carry her to Nagpur and arranged blood, medicines etc. She has also admitted that accused distributed sweets on delivery of child. So far as PW 3's deposition is concerned, there are discrepancies in the version of PW 1 and PW 2 and deposition of 3 i.e. Security Guard. In view of this deposition and suggestions by defense Advocate, we are of the considered opinion that there is possibility of accidental fall of child. This fact is also needs consideration that the incidence took place on 31/12/2022 and child succumbed to injuries on 11/01/2023, after 10 days. Investigating Officer has not recovered any document of medical treatment of the child. Moreover, if at all accused was doubting character of his wife and pick up quarrel, he would not have taken her to hospital while she was pregnant and would not have taken due care as admitted by PW 1 and 2. As such, at this stage, we are of the considered opinion that there is also a possibility of falling of child accidentally. Therefore applicant is entitled to be released on bail and execution of substantive sentence needs to be suspended. Even there is no possibility of hearing appeal in the near future, in view of the pendency. accordingly, we pass the following order :

**ORDER**

1. Application is allowed.
2. The execution of substantive sentence against Girish @ Shrikant Mahadeorao Gondane, stands suspended till the final disposal of the appeal.
3. The applicant Girish @ Shrikant Mahadeorao Gondane, shall be released on bail on furnishing PR bond of Rs.50,000/- and one solvent surety in the like amount.
4. The Trial Court shall issue release warrant after ensuring deposit of entire fine amount.

The application stands disposed of in the above terms.

(M.W. CHANDWANI, J.)

(SMT. M.S. JAWALKAR, J.)

*Jayashree....*