



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1193 OF 2024  
IN  
CRIMINAL APPEAL NO. 284 OF 2024

Piraji Bajirao Shejul

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....  
Ms. A.A. Lomte, Advocate h/f Mr. S.G. Kawade, Advocate for applicant  
Mr. N.D. Batule, A.P.P. for respondent – State  
....

CORAM : R. G. AVACHAT AND  
NEERAJ P. DHOTE, JJ.

DATE : 13<sup>th</sup> JANUARY, 2025

**PER COURT :**

1. This is an application for suspension of substantive sentence imposed by Sessions Judge, Beed in Sessions Case No. 108 of 2022 by judgment and order dated 04<sup>th</sup> December, 2023 convicting the applicant for the offence punishable under Section 302 of the Indian Penal Code.

2. The case of the prosecution, in brief is that the applicant killed his wife in their house on account of dispute between them as the applicant was not agreeable to the popular belief followed by the deceased. The informant is the son of the applicant and they broke open the room of the applicant and found his mother dead. The incident was reported to the police. Crime was

registered and after investigation, the applicant was charge-sheeted for the offence of murdering his wife. The trial Court convicted the applicant as mentioned above.

3. It is submitted by learned counsel for the applicant that except blood stains on the *dhoti* and *kurta* of the applicant, there is no substantive evidence to connect the applicant with death of his wife. She submits that only on the basis of C.A. reports the trial Court has passed the impugned judgment and order convicting the applicant. The applicant is sixty-five years of age and he be granted bail.

4. The applicant is opposed by learned A.P.P. He submits that in the previous statement of the witnesses, it is clearly made out that the applicant was present inside the room at the time of the incident, and therefore, burden shifts on him under Section 106 of the Evidence Act. He submits that the blood group of the blood stains found on the clothes of the applicant also corroborates the case of the prosecution and the learned trial Court has rightly passed the impugned judgment and order. He submitted that the application be rejected.

5. Undoubtedly, the material witnesses have not supported the case of prosecution. Though they were cross-examined by learned A.P.P., nothing has come forward to establish that the applicant was present in the room at

the relevant time. In absence of the same, provisions of Section 106 of the Evidence Act will not come in play. The only evidence against the applicant is blood stains of the deceased on his *dhoti* and *kurta*. It is debatable whether the conviction and sentence would sustain only on the basis of the C.A. report. The applicant is sixty-five years of age and there is no possibility that the appeal would be heard finally in near future. The applicant is behind the bars for little over three years, hence we proceed to pass the following order :-

The execution of substantive sentence of imprisonment imposed against the applicant vide judgment and order dated 04<sup>th</sup> December, 2023 passed by Sessions Judge, Beed in Sessions Case No. 108 of 2022 to stand suspended, pending the appeal. The applicant be released on his executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

( NEERAJ P. DHOTE, J. )

SSD

( R. G. AVACHAT, J. )