

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 21 OF 2025

THE STATE OF MAHARASHTRA

VERSUS

SANDIP ANANDRAO BHOSALE

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A. P. P. for Appellant : Mr. A. S. Shinde

Advocate for Respondent : Mr. B.G.Lathe

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CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.

DATED : 04th AUGUST, 2025

ORDER:-

1. Acquittal of the respondent/accused under Sections 302, 397 of the Indian Penal Code (for short "I.P.C.") is questioned in the present application. Accused was charged under Sections 392, 397 and 302 of the I.P.C. Trial Court found the accused guilty of the offence punishable under Section 392 of the I.P.C. and sentenced him to suffer Rigorous Imprisonment for three years and to pay a fine of Rs. 7,0000/- with a default clause and acquitted him of the offences punishable under Sections 302, 397 of the I.P.C. The state has challenged the said acquittal by filing Application for Leave to File Appeal against the acquittal.

The prosecution case, in short, is as under :-

2. On 6th October 2021, Madhav Maroti Doodhate, the informant lodged a report stating that he has been serving as a Professor at

Gangakhed, District Parbhani. His mother Sheshabai, aged about 80 years, was residing at his native place Ghural. His sister Gitabai was also residing at their native place Ghural along with her husband. On 6th October 2021, at about 3.45 p.m., he received a phone call from Dnyeshwar Rupnar, resident of village Gural and he was informed that his mother was dead. Informant then left for native place. On the way he received a message that his mother was admitted in the Government Hospital, Nilanaga. Accordingly, he reached at hospital at about 8.00 p.m. At that place his cousin informed him that his mother was working at the field at about 3.00 p.m., at that time unknown person slit her neck, when she was taken to the Hospital, doctor declared her dead. Accordingly, he lodged the F.I.R. with Nilaga Police Station, on the basis of which crime No. 288 of 2021 for the offence punishable under Section 302 of I.P.C. was registered. During the investigation, supplementary statement of the informant was recorded. Respondent/ accused was arrested on 9th October 2022 and on the basis of disclosure statement given on 12.10.2022, gold ornaments concealed below a stone were recovered from an agricultural land. Blood stained clothes were also allegedly recovered from the accused. The Investigation reveals that accused committed theft of gold ornaments worn by the deceased by slitting her neck.

3. In support of its case, prosecution has examined 18 witnesses. The trial Court has convicted the accused as aforesaid and acquitted him of the offence punishable under Sections 302 and 397 of the I.P.C. Hence, the present application.

4. Learned A.P.P. by relying on *Raju Manjhi Vs. State of Bihar [(2019) 12 Supreme Court Cases 784]*, submitted that since the stolen ornaments are recovered from the accused and his blood stained clothes are seized, this evidence is sufficient to convict him under Sections 302 and 397 of the I.P.C.

5. Learned Advocate for the accused, on the other hand, supported the impugned judgment.

6. With the assistance of the learned A.P.P and learned counsel for the respondent, we have perused the documents placed on records including notes of evidence, impugned judgment and the citations relied upon.

7. Record reveals that prosecution has failed to prove the presence of the accused at the time of commission of murder. While convicting the accused under Section 392 of the I.P.C., the trial Court has drawn presumption under Section 114 of the Indian Evidence Act. No finger prints were found on the alleged murder weapon, knife, as it was not

sent to the forensic laboratory. The alleged articles seized at the instance of accused were not sealed properly. The report in respect of blood stains alleged to have been found on the clothes of the accused is inconclusive. Perusal of the impugned judgment shows that the trial Court has properly appreciated the evidence and has rightly acquitted the accused.

8. Decision in the case of ***Raju Manjhi (supra)*** is rendered in different facts and the same is not helpful to the prosecution case.

9. We find no merit in the application and the same is therefore, dismissed.

(SANDIPKUMAR C. MORE)
JUDGE

(NITIN B. SURYAWANSHI)
JUDGE

Y.S. Kulkarni