

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.1742 OF 2024

IN

CRIMINAL APPEAL NO. 424 OF 2024

Ratan Sandu Salve

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

Shri. Sachin S. Deshmukh, Advocate for the Applicant (Appointed)

Smt. U. S. Bhosale, APP for the Respondent / State

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

Dated : JANUARY 08, 2025

PER COURT :-

. This is the Application for suspension of substantive sentence imposed upon the Applicant by learned Additional Sessions Judge, Jalna by Judgment and Order dated 9th May, 2023 passed in Sessions Case No.124/2021, whereby the Applicant / Applicant was convicted for the offence punishable under Section 302 of the Indian Penal Code for committing Murder of his Wife and he was directed to suffer Imprisonment for Life with fine of Rs.Ten Thousand (Rs.10,000/-), in default, to suffer Rigorous Imprisonment for Three (3) Months.

2. The case of the Prosecution, in brief, is that, on 15.01.2021, the Applicant / Appellant and Deceased had come to their native place i.e. Kumbhari, Tal. Bhokardan, Dist. Jalna. They stayed overnight. On the next day morning, the Applicant's / Appellant's Wife was found dead inside the house. The Applicant / Appellant was not present there. The

neighbours saw the dead body when he peeped inside the house. The matter was reported to the police. The cause of death was revealed as '*Electrocution due to Electric Current*'. The crime was registered on the Report lodged by Brother of Deceased. The Applicant / Appellant came to be arrested. After the Charge-sheet was filed, the Applicant / Appellant was Charged and tried. By the impugned Judgment and Order, the learned Trial Court convicted the Applicant / Appellant.

3. It is submitted by the learned Advocate for the Applicant / Appellant that, there were no previous complaints by the Deceased against the Applicant / Appellant. The Prosecution tried to create different scenes, which is apparent from the evidence on record. The FIR was lodged on the hearsay information. The injuries on the hands of Deceased, as seen from the Post-mortem Report, indicate that the Deceased had caught hold the electric wire with both the hands after consumption of insecticide and, therefore, suicidal death cannot be ruled out. The Applicant was also hospitalized due to consumption of insecticide. He submitted that the evidence on record do not conclusively establish the Charge of Murder. There is no possibility that the Appeal would be heard in near future and, therefore, the Application be allowed.

4. The Application is opposed by the learned APP. She submits that the evidence on record go to show that the Applicant / Appellant

and Deceased had come together in the village as there was voting on the next day. They had dinner together at their neighbour's house and thereafter the Applicant / Appellant committed her Murder and fled. She submits that this can be seen from the Post-mortem Report as food particles were found in the stomach of Deceased. She submits that, the learned Trial Court has rightly appreciated the Post-mortem Report in the evidence on record and passed the impugned Judgment and Order. She submits that the Application be rejected.

5. True it is that the FIR was lodged by the Brother of Deceased who is not eye witness to the incident. From the evidence of PW2 – Mangesh Ratan Salve, who was the son of the Applicant / Appellant and Deceased, and PW4 – Pravin Kashinath Jogdand who was the neighbourer, that the Applicant / Appellant and Deceased had come together in the evening of 15.01.2021. The evidence of PW4 - Pravin Kashinath Jogdand show that the Applicant / Appellant and Deceased had food at his house at about 08:00 to 08:30 p.m. and thereafter went to their house and on the next day morning he saw the Applicant / Appellant standing in front of his house near electric pol and thereafter the Applicant / Appellant went towards his brother's house to take his motorcycle and went away. From this evidence on record, it is clear that, the Appellant/ Applicant and Deceased were seen together before death of the Wife. The Post-mortem Report shows the following injuries :

- “(1) Laceration present over Right Frontal area of size 4.2 x 2.1 x scalp deep Margin irregular blood oozing from wound site.
- (2) Contusion present over Right eye of size 3.2 x 2.5 cm margin irregular.
- (3) Electric entry wound present on dorsum of Proximal Phalange of left middle finger of size 3.2 x 1.3 cm, elevated, harden, blacken margin and Pale Base Bone expose. Peripheral zone of redness present surrounding electric entry wound.
- (4) Electric entry wound present in between base of middle and ring finger of dorsum of left hand of size 2.5 x 1.4 cm, harden. Blacken margin. Peripheral zone of redness present surrounding electric entry wound.
- (5) Electric entry wound present over base of index finger of dorsum of right hand of size 1.3 x 1 cm elevated, harden, blacken margin, peripheral zone of redness present surrounding electric entry wound.
- (6) Electric entry wound present over base of right middle finger of dorsum of hand of size 1.2 x 1 cm elevated, harden, blacken margin. Peripheral zone of redness present surrounding electric entry wound.”

6. The cause of death was ‘*Electrocution due to Electric Current*’. The final opinion as to cause of death show ‘*the presence of Carbamate Insecticide in Deceased*’. The Inquest show blood on face and neck of Deceased. The explanation of the Applicant / Appellant as well as the cross-examination of the witnesses do not lead to any other inference than the one drawn by the learned Trial Court. We do not find this to be a fit case for grant of suspension and bail. Hence, the following order.

ORDER

- (i) The Application is rejected.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)