

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3707 OF 2025

IN CRIMINAL APPEAL NO. 798 OF 2024

WITH

CRIMINAL APPLICATION NO.2785 OF 2022

Arjun Kisan Kasbe

Applicant

Versus

The State of Maharashtra

Respondent

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Mr. S.G. Bobade, Advocate holding for Mr. M.M. Parghane,
Advocate for the applicant.

Mr. N.S. Tekale, A.P.P. for the respondent-State.

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CORAM : **SANDIPKUMAR C. MORE &
MEHROZ K. PATHAN, JJ.**

DATED : **16 OCTOBER 2025**

ORDER (Per Sandipkumar C. More, J.) :

1. By this application, the applicant Arjun Kisan Kasbe i.e. the original accused in Sessions Case No. 72 of 2016, is seeking suspension of his substantive sentence imposed upon him under judgment and order dated 18.05.2022 in the aforesaid sessions case, passed by Sessions Judge, Osmanabad i.e. the learned trial Judge and releasing him on bail during the pendency of appeal.

2. As per the prosecution case, on 20.06.2016 the Head Constable of Yermala Police Station received phone call whereby he was informed that dead body of unknown woman was lying near percolation tank in Ghat portion of Barshi-Yermala road. On visiting the spot, it was found that said dead body was having so many injuries with amputation of her right hand and falling of her hair. Therefore, crime under Sections 302, 201 of the Indian Penal Code was registered against an unknown assailant. However, during investigation it was revealed that said dead body of a woman was of one Usha from village Hol, who was residing with her son and lover Arjun Kasbe i.e. the present applicant. It was also revealed that her name was Basawaa Rudrappa Jalgeri who had left house of her husband in the year 2014 and started residing with the applicant. However, there used to be frequent quarrels between applicant and deceased Basawaa @ Usha. Since on 16.06.2016 she suffered giddiness and fell down, the applicant, on 17.06.2016, took her for medical treatment on motorcycle towards Latur. However, thereafter no contact could be established with her by PW-6 Pankaj i.e. her son. It was found that the applicant killed the deceased at about 1.00 a.m. by hitting the stone on her head and returned alone to his house at Hol.

3. Learned counsel for the applicant/accused submitted that there is no eye witness in the present case and it is based only on circumstantial evidence. According to him, no CCTV footage was obtained from the petrol pump where the applicant allegedly filled petrol in his motorcycle while taking the deceased with him. Further, the medical evidence on record is not helpful for the prosecution and dead body of unknown woman was not shown to the PW-6 i.e. son of deceased for identification. According to him, the applicant is in jail for the period of more than 8 years and in absence of clinching evidence he needs to be released on bail.

4. On the contrary, learned A.P.P. strongly opposed the submissions made on behalf of the applicant/accused. According to him, though the case is based on circumstantial evidence, but the prosecution has established each of such incriminating circumstances beyond reasonable doubt by forming a chain of incidents leading to the guilt of applicant/accused.

5. Heard rival submissions. Also perused the entire record and proceeding of the original sessions case.

6. Admittedly, there is no eye witness to the incident and case is totally based on circumstantial evidence. However, on going through the judgment itself it is evident that the learned trial Judge has given the number of incriminating circumstances forming the complete chain leading to the guilt of applicant. Those the circumstances can be summarised as follows :

- (i) There was love affair between deceased and applicant and there is also evidence on record and deceased was seen lastly in the company of applicant and she was found to be biological mother of PW-6 Pankaj who was residing with the applicant.
- (ii) PW-9 and PW-7 had seen the applicant and deceased when they were proceeding on motorcycle from village Hol in the morning on 17.06.2016. There was telephonic talk between PW-6 and deceased at about 4 p.m. on the same day. Further, on that day only at about 5.00 p.m. PW-11 i.e. owner of hotel where applicant and deceased took tea and bread, had seen them.
- (iii) The tower location of mobile numbers of the deceased Usha and applicant was found to be of Pandhrpur-Barshi road.
- (iv) The accused alone reached home and could not explained properly as to how the dead body of Usha was found on the spot of incident.

(v) Further, despite going with the deceased and returning alone, the applicant spread the news that the deceased had gone to the house of her sister at Miraj.

(vi) The applicant sold gold bids and Dorle ornaments to PW-7 goldsmith. Moreover, the applicant also showed the places as per his disclosure statement to the police where he had thrown saree of deceased and his shirt.

7. Thus it was established that the deceased was in company of applicant from 10.00 a.m. of 17.06.2016 till 10.00 p.m. on the same day and there is no plausible explanation coming from the applicant as to what happened thereafter. As such, it appears that the prosecution has established each and every circumstance against the applicant. It is to be noted that during the trial applicant was not released on bail, and therefore, considering the material on record, we are not inclined to suspend his sentence of imprisonment and his release on bail during the pendency of this appeal.

8. In the result, Criminal Application No.3707 of 2025 stands rejected.

9. The criminal appeal be placed for final hearing as per its chronological turn.

10. In view of dismissal of this application, the earlier pending application bearing Criminal Application No. 2785 of 2022 for similar relief, also stands disposed of.

(MEHROZ K. PATHAN)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE