

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

909 CRIMINAL APPLICATION NO. 3733 OF 2025
IN
CRIMINAL APPEAL NO. 724 OF 2025

Suryakant S/o. Narayan Jaybhaye And Another

VERSUS

The State Of Maharashtra

...

Mr. Abhaykumar Dilip Ostwal - Advocate for Applicants

Mr. C. V. Bhadane - APP for State

...

CORAM : NEERAJ P. DHOTE, J.

DATED : 17TH OCTOBER, 2025

PER COURT : -

1. This is an Application for Suspension of Substantive Sentence imposed by the learned Additional Sessions Judge-1, Latur, against the Applicants in Sessions Case No. 61 of 2017, by Judgment and Order dated 30.08.2025, convicting and sentencing the Applicants as follows: -

"ORDER"

1) *Accused no.1 Suryakant s/o Narayan Jaybhaye and no.3 Radhabai w/o. Narayan Jaybhaye are convicted u/s. 235(2) of Cr.PC., as under :*

(a) *For the offence punishable U/ss. 304-B r/w. 34 of IPC, they are sentenced to suffer the rigorous imprisonment for 15 years and shall pay fine of Rs. 20,000/- (Rs. Twenty Thousand only) each. In default of paying fine, they shall further undergo rigorous imprisonment of 1 year each.*

(b) *For the offence punishable U/s. 498-A r.w. 34 of IPC, they are sentenced to suffer rigorous imprisonment for 3 years and shall pay fine of Rs.15,000/- (Rs. Fifteen thousand only) each. In*

default of paying fine, they shall further undergo rigorous imprisonment of 6 months each.

2) If the accused nos. 1 and 3 do not pay fine, they have to suffer in default sentence of imprisonment, as aforementioned.

3) to 11)”

2. The case of the Prosecution, in brief, is that the Deceased, who was the daughter of the Informant, was married to Applicant No. 1 on 18.05.2013 and died on 05.03.2017. The Applicants took dowry of Rs. 3.00 lakh and some gold at the time of fixing the marriage. The Deceased was treated properly for two years, however, she was subjected to ill-treatment for dowry of Rs. 2.00 lakh. On the report lodged by Deceased's father, the Crime came to be registered against the Applicants and the acquitted accused persons. After the investigation, they were Charge-sheeted and tried, which culminated into the impugned Judgment and Order.

3. It is submitted by the learned Advocate for the Applicants/Appellants that the Applicant No. 1 is the husband and the Applicant No. 2 is the mother-in-law of the Deceased, who is 75 years old. The evidence in respect of demand of dowry and ill-treatment is sketchy. On the basis of very same evidence, the co-accused, who are brothers-in-law of the Deceased, came to be acquitted. The Applicants were on bail during the trial and since the pronouncement of Judgment, they are behind the bars. He submits that the Applicants have a good

case on merits and, therefore their sentence be suspended and they be released on bail.

4. The Application is opposed by the learned APP. He submits that, the Deceased died an unnatural death. There is evidence of demand of dowry and ill-treatment to the Deceased at the hands of Applicants. The Deceased died after three (3) years and nine (9) months of her marriage due to suicide. The evidence on record gives rise to the presumption under Section 113(B) of the Indian Evidence Act and the learned Trial Court has rightly convicted the Applicants, and the Application be rejected.

5. With the help of the learned Advocate for the Applicants and the learned APP, I have gone through the evidence on record. The evidence of the first Informant who is the father of the Deceased show that, the Deceased was subjected to cruelty by all the accused persons. The other evidence of the witnesses also attribute the role of ill-treatment to all the accused persons. The evidence of PW7-Balaji Jaybhaye, the brother-in-law of Deceased go to show that, the Deceased was residing with her husband, brothers-in-law, father-in-law and mother-in-law. However, the brothers-in-law are acquitted on the very evidence. According to PW4, who is the cousin grand-father of the Deceased, the accused persons used to beat the Deceased and keep her

on starvation. The medical evidence show that the cause of death as “asphyxia due to drowning”. The evidence of Medical Officer examined as P.W.2 shows that, there was no evidence of any external injury to external genital. The wounds were post mortem in nature and there was no evidence of any external injuries to the scalp. The injuries meentioned in column No. 17 may be possible because of stone. The evidence on record goes to show that, the spot of incident of death of Deceased is a well.

6. The evidence on record goes to show that, PW1 i.e. Informant, father of the Deceased had been to Police Station after the incident. Though he denied the suggestion that initially he had not raised any complaint against the Accused and he returned by saying that he will tell later on, the Application Exh. 77 was confronted to him and he accepted his signature on the same, after reading the contents. The evidence of the Investigating Officer examined as PW8 show that, PSO registered the Accidental Death Report [ADR] on 05.03.2017 in which it was mentioned that the Deceased fell in a well and the said information was given by PW7-Balaji Jaybhaye. The evidence on record further goes to show that, the Deceased died on the very next day after she returned from her parental house. The evidence of step mother-in-law of the Deceased show that, she had carried her ornaments with her when she went to her matrimonial house. Suggestion is given to the mother-in-

law of the Deceased that, she objected the Deceased to carry her gold ornaments to her matrimonial home and quarrel had taken place between the Deceased and her step mother. Suggestion is also given to the mother-in-law that she told the Deceased to go with ornaments and die. In the 313 Cr.P.C. statement, it is the case of the Applicants/Appellants that there was a dispute between the Deceased and her step mother in respect of her gold ornaments. The evidence on record goes to show that the ornaments were on the dead body. Therefore, the contention of learned Advocate for the Applicants that, had it been true, the ornaments would not be with the Deceased, cannot be brushed aside lightly

7. In view of the above discussed evidence on record, the Applicants have arguable points on merits. The Co-accused are acquitted on the same evidence. The Applicants/Appellants were on bail during the trial. The R&P with Paper-book is not yet received. The Appeal is of 2025 and not likely to come up for final hearing in the near future. Under such circumstances, I am inclined to allow the Application and hence, pass the following order: -

ORDER

- [i] The Application is allowed.
- [ii] The sentence imposed upon the Applicants by the learned Additional Sessions Judge-1, Latur, by the Judgment and Order dated 30.08.2025 in Sessions Case No. 61 of 2017, is

hereby suspended till the final decision of the Appeal. In the meantime, the Applicants be released on bail on their furnishing personal bond of Rs.15,000/- [Rupees Fifteen Thousand] each, with one or two sureties in the like amount.

- [iii] The Applicants shall not tamper with the prosecution evidence in any manner, whatsoever.
- [iv] The Applicants shall cooperate in the early disposal of the Appeal.
- [v] Bail before the Trial Court.
- [vi] The Application stands disposed off.

[NEERAJ P. DHOTE]
JUDGE

SG Punde