

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2704 OF 2024

IN

CRIMINAL APPEAL NO.714 OF 2024

Ramesh Ganpati Gaikwad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Kedar Patil a/w. Mr. Sachin Mane, Mr. Pratik Tare and Ms. Sakshi Kadam for the Applicant.

Ms. Pallavi N. Dabholkar, APP for the Respondent – State.

CORAM : SUMAN SHYAM &

SHYAM C. CHANDAK, JJ.

DATED : 07th AUGUST, 2025

P.C. :-

. Heard Mr. Kedar Patil, learned Counsel for the Applicant and Ms. Pallavi Dabholkar, learned APP for the Respondent – State.

2) The instant Application has been filed under Section 389 of Cr.P.C. with a prayer to suspend the jail sentence and also to release the Applicant on bail, pending disposal of the aforesaid Criminal Appeal.

3) By Judgment and Order dated 30/04/2024 in Sessions Case No.20/2019, the learned Additional Sessions Judge, Jaysingpur, District Kolhapur had convicted the Applicant for commission of the offence

punishable under Section 302 of the Indian Penal Code (IPC), 1860 and sentenced him to suffer imprisonment for life and to pay fine of Rs.10,000/- in default to suffer rigorous imprisonment for two years.

4) The Applicant was arrested on 23/03/2019 and since then, he is in jail, thus, spending more than 06 years and 04 months in custody as on date.

5) It appears that the prosecution case is based on circumstantial evidence wherein the extra-judicial confession of the Applicant brought on record through the PW.4 and PW.5, have been relied upon by the learned trial Court so as to convict him.

6) Mr. Kedar Patil, learned Counsel for the Applicant has argued that even if the prosecution evidence is accepted on its face value, even then, this is a clear case of grave and sudden provocation triggering the incident and therefore, the Applicant cannot be held guilty for committing the murder of his wife which is an offence punishable under Section 302 of the IPC. On such counts, the Applicant's Counsel has prayed for release of his client on bail pending disposal of the Criminal Appeal.

7) The prayer of the Applicant for release on bail has been strenuously opposed by Ms. Dabholkar, learned APP for the Respondent – State by submitting that this is not the case merely based on extra-judicial

confession, but the other circumstantial evidence brought on record undoubtedly goes to show that it was a case of pre-planned murder of the deceased. While refuting the arguments advanced by the Applicant's Counsel as regards presence of the element of grave and sudden provocation, Ms. Dabholkar, learned APP has further argued that the learned Trial Court has rightly found the accused guilty of committing the murder of his wife. Therefore, the bail application be rejected.

8) We have considered the submissions made at the bar and have also gone through the materials available on record.

9) As has been noted hereinabove, it appears from the material on record that, on 23/03/2019 i.e., the date of the incident, things were normal for the Applicant and his wife until the time he had asked for buttermilk from his wife and possibly found that stale buttermilk was offered to him by his wife. This enraged the Applicant and therefore, instead of drinking the buttermilk, he only had "*shabu*". But the matter did not end there. In the afternoon, when he had asked for a cup of tea from his wife, she had abused him in filthy language and thereafter, left the house. The evidence on record further indicates that, the wife (deceased) had taken off her marriage string (*mangalsutra*) so as to apparently indicate that she did not want to maintain the marital relationship with the accused. These circumstances coupled with the fact that a quarrel did take place between the accused and the deceased

just before the incident, raises sufficient presumption as to the presence of grave and sudden provocation to the accused, thus, suggesting the possibility of bringing the case within the ambit of Explanation 1 and 4 of Section 300 of the IPC.

10) It is the established law that, the extra-judicial confession is weak piece of evidence. Although the incident had allegedly taken place in a bus stop, yet, it appears that there was no eye witness to the incident. Some doubt would, therefore, arise as to whether, the charge brought under Section 302 of the IPC had, at all, been proved by the prosecution beyond reasonable doubt.

11) We have also noted that, after the incident, the Applicant himself went to the police station and reported the incident, thus, portraying the lack of any attempt on his part to flee the scene or of disowning the occurrence.

12) After scanning through the material available on record and after considering the submissions made at the bar, we find force in the submissions of the Applicant's Counsel that, the possibility of conversion of the conviction of the Appellant to a lesser offence, cannot be ruled out in this case. However, the said aspect of the matter would fall for detailed consideration of this Court only at the time of final hearing of the Appeal which would take some time.

13) In view of the above, we are inclined to accept the prayer made in the Application. Hence, the following Order :-

- O R D E R -

(a) The Applicant – Ramesh Ganpati Gaikwad is directed to be released on bail in Sessions Case No.20/2019, on furnishing PR. bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the learned Trial Court.

(b) The Applicant shall register his attendance before the officer in-charge of the Kurundwad Police Station, Tal. Shirol, District Kolhapur on the 1st Monday of every month during the pendency of this Appeal.

(c) The Applicant shall maintain good behaviour and desist from any anti social activity during the currency of the bail order.

(d) The Applicant shall ensure due representation before this Court as and when his Criminal Appeal is listed for hearing.

(e) The Applicant shall not, in any manner, make attempt to intimidate the prosecution witnesses.

14) Before parting with the record, we make it clear that, the observations made herein above are tentative in nature and have been made purely for the limited purpose of disposing of this Interim Application. However, we make it clear that violation of any of the above noted conditions would be viewed seriously and if the Applicant is found disobeying the aforesaid conditions, the prosecution would be at liberty to move this Court for cancellation of the bail.

15) With the above observations, Interim Application is disposed of.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)

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