

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 4966 OF 2024
IN
CRIMINAL APPEAL NO. 1224 OF 2024
WITH
CRIMINAL APPEAL NO. 1224 OF 2024

Ramchandra Tulsappa Vanjole ...Appellant/ Accused
No.3/ Applicant

Versus

The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 4962 OF 2024
IN
CRIMINAL APPEAL NO. 1228 OF 2024

WITH

CRIMINAL APPEAL NO. 1228 OF 2024

Arjun Tulsappa Vanjole ...Appellant/Accused
No.1/ Applicant

Versus

The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 4969 OF 2024
IN
CRIMINAL APPEAL NO. 1227 OF 2024

WITH

CRIMINAL APPEAL NO. 1227 OF 2024

Sandip Arjun Vanjole ...Appellant/Accused
No.2/Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Subhash Jha with Mr. Mukesh Kumar Mishra, Mr. Sumeet Upadhyay and Mr. Ashish Saxena i/by M/s Law Global, for the Appellants/Applicants.

Mr. Kumar V. Saste, APP, for the Respondent-State.

**CORAM: SUMAN SHYAM &
SHYAM C. CHANDAK, JJ.**

DATED: 29TH JULY 2025.

PC (Per-Suman Shyam J.)

1. The three Applicants here-in viz., Arjun Tulsappa Vanjole, Sandip Arjun Vanjole and Ramchandra Tulsappa Vanjole were amongst the six accused persons arraigned in C.R.No.19 of 2015 registered with the Ajara Police Station district Kolhapur based on the FIR dated 14th March, 2015 lodged by Shivaji Ganu Vanjole who is the brother of the deceased. By the judgment and order dated 6th September, 2024 passed by the Court of learned Additional Sessions Judge, Gadhinglaj, District Kolhapur in Sessions case No.6 of 2015 all the three Applicants were convicted under Section 302 r/w Section 34 of the Indian Penal Code (IPC) for committing the murder of Janba Vanjole. Each of them were sentenced to undergo rigorous imprisonment for life and also to pay fine of Rs.10,000/-, in default to undergo further rigorous imprisonment for two years. The other three accused persons were, however, acquitted. The convicted accused persons are presently in jail. They have approached this Court by filing the three separate applications bearing Nos. 4962 of 2024, 4969 of 2024 and 4966 of 2024 arising out of Criminal Appeals Nos. 1228/2024, 1227/2024

and 1224/2024 respectively, seeking suspension of their jail sentences and also for their release on bail pending disposal of the connected Criminal Appeals.

2. The Informant in this case is related to the accused No.1/Applicant-Arjun Vanjole (cousin). There was some land dispute between the family of the informant and the accused no 1 regarding a plot of land situated at “Chirati” which dispute ultimately reached the City Civil Court. It appears that eventually, the verdict of the court went in favour of the Informant’s family, as a result of which, there was simmering tension between the two families. On 14th March, 2015 at about 6.00 p.m., when the brother of the informant viz. Janba Vanjole (deceased) was standing by the side of the road, Applicants-Sandip Vanjole and Ramchandra Vanjole i.e the accused Nos. 2 and 3, came in a Pulsor motor-cycle and dashed Janba Vanjole, as a result of which, he fell down on the ground. Thereafter, accused Nos. 2 and 3 had assaulted the victim with fists and kick blows. At that time the family members of the victim came to the spot. Accused No.1-Arjun Vanjole assaulted Janba with a wooden log commonly known as “*Tonaa*” thus, inflicting grievous injury on the head of the deceased.

3. By referring to the findings recorded by the learned Trial Court, Mr. Jha, learned counsel for the Applicants has argued that there is evidence to show that the incident was preceded by a quarrel. Since it is a case of single blow and there is absence of

pre-meditation on the part of the accused hence, it is not a case coming within the purview of Section 302 of the IPC.

4. The learned counsel has further argued that the incidents took place on 14th March, 2015, but the victim had succumbed to his injuries only on 26th March, 2015 i.e. after undergoing treatment in the hospital for 12 days. In between, he was shifted on as many as four occasions to different hospitals. As such, submits Mr. Jha, Section 302 of IPC would not be attracted in this case. That apart, Mr. Jha submits that there is no finding recorded by the learned trial court as regards presence of common intent on the part of the accused so as to justify conviction with the assistance of Section 34 of the IPC. According to Mr. Jha, there is strong possibility of acquittal of the Applicants. Therefore, the present is a fit case for releasing the Applicants on bail pending disposal of the Criminal Appeals.

5. Mr. Kumar V. Saste, learned APP for the Respondent/State on the other hand, has argued that the prosecution case is based on the testimony of eye witness and therefore, it cannot be said that the charges brought against the accused /applicants have not been established beyond reasonable doubt. As such, submits Mr. Saste, the Bail Applications be rejected. The learned APP has, however, submitted in his usual fairness that it could be a case of single blow on the head of the deceased leading to his death.

6. Upon preliminary review of the materials on record we find that after the incident, the victim was hospitalized and thereafter, he was shifted from one hospital to another on as many as four occasions. He ultimately died in the hospital after receiving medical treatment for about 12 days. Therefore, possibility of the victim succumbing to his injuries due to want of proper medical care and treatment cannot be completely ruled out in this case. Likewise, evidence on record also *prima facie* indicates that a quarrel between the rival parties had precede the occurrence and there was cross FIR lodges against the opponent group. Therefore, it is possible that the accused no 1 had acted in a heat of passion and by losing his power of self-control, had dealt a fatal blow on head of the deceased with a blunt object viz “*Tonaa*” which is a commonly available implement in most of the rural households in the State. Therefore, whether the victim had struck a blow on the victim in a heat of passion and without any premeditation is also a relevant aspect of this case which would fall for consideration of the court at the time of final hearing of the Criminal Appeals.

7. It is no doubt correct that the eye witnesses have ascribed a specific role to the accused no 1 in assaulting the deceased on the head. Their testimony also finds due corroboration from the medical evidence. However, it has also come out from the testimony of the doctor (PW-7) that the death was due to the head injury caused by hard and blunt object which, *prima facie* goes to show that it is a case of single blow on the vital part of the body causing death to the deceased.

8. We have also noticed that there is no specific finding recorded by the learned trial court Trial Court as regards meeting of minds and common intention on the part of the accused persons to cause death to the deceased so as to convict them under Section 302 IPC with the assistance of Section 34 of the IPC. The said aspect of the matter assumes great significance in view of the fact that the evidence available on record clearly indicates that the accused Nos. 2 and 3 had assaulted the victim with fists and kick blows. It is to be noted here-in that, as has been noticed here-in above, the medical evidence indicates that the death of the deceased was caused due to a single head injury caused by blunt object.

9. It further appears from the materials placed before us that all the three accused/ Applicants had faced trial while on bail granted by this court and there is no allegation of violation of the bail conditions.

10. Having regard to the peculiar facts and circumstances of the case we are of the *prima facie* opinion that there is possibility that the present may not be a case of conviction of the accused persons under Section 302 of the IPC but a case of lesser offence. However, the said aspect of the matter can be examined at the time of final hearing of the appeals. We, therefore, find force in the submission of Mr. Jha that the Bail Applications filed by the accused/ Applicants deserve to be allowed.

11. We, accordingly, pass the following order:-

ORDER

- I. The Applicants, viz, Arjun Tulsappa Vanjole, Sandip Arjun Vanjole and Ramchandra Tulsappa Vanjole shall be released on bail in connection with C.R.No. 19 of 2015 registered with Ajara Police Station, District Kolhapur on furnishing PR Bond of sum of Rs.30,000/-each with one or two sureties in the like amount, to the satisfaction of the learned Trial Court.
- II. The Applicants shall maintain good behaviour and shall not indulge in any anti social activity while on bail.
- III. The Applicants shall appear before the concerned Police Station on the first Saturday of every month between 3.00 p.m. to 5.00 p.m. until such time, the pending appeals are finally disposed of.
- IV. The Applicants shall not leave the jurisdiction of Kolhapur district without the prior permission of the learned Trial Court.
- V. The Applicants shall ensure due representation before this court through their engaged counsel as and when the connected appeals are taken up for final hearing.

12. Before parting with the records, we make it clear that the observations made in this order are tentative in nature and have been made purely for the purpose of disposing of the three bail applications.

13. All the three Interim Applications stand disposed of accordingly.

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)