

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO. 5236 OF 2024

IN

CRIMINAL APPEAL NO. 1049 OF 2024

Sadanand Yuvraj Potdar

... Applicant

Versus

State of Maharashtra

... Respondent

.....

Mr. Vikrant V. Phatate, Advocate for the Applicant.

Mr. Pankaj P. Deokar, APP for the State.

CORAM : SHIVKUMAR DIGE, J.

DATED : 9th APRIL, 2025.

P. C. :

1. By this application, the applicant is seeking stay to conviction imposed on the applicant by the Additional Sessions Judge, Solapur (for short "Sessions Court") in Sessions Case No. 176 of 2017.

2. It is contention of learned counsel for the applicant that the applicant has been convicted under Section 306 read with Section 107 of of Indian Penal Code, 1860 (for short "IPC") and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.5,000/- in default of payment of fine, he shall undergo further rigorous imprisonment for six months. The applicant is also convicted for the offence punishable under Section 498-A of IPC and sentenced to suffer rigorous imprisonment

for one year and to pay fine of Rs.5,000/-in default of payment of fine, he shall undergo further rigorous imprisonment for six months.

3. Learned counsel further submits that the deceased was wife of the applicant. The applicant never harassed or ill treated her. She was in service. It is prosecution's case that the deceased had consumed poison and died. The applicant got admitted her in hospital. Even the applicant gave her first aid, by giving oral breathing, due to that oral breathing, the applicant got ill and he was admitted in hospital. But these facts are not considered by the Trial Court. The applicant is a Government servant. If conviction is not stayed then it will affect on his service, hence requested to allow the application.

4. It is contention of learned APP that applicant used to harass the deceased on suspecting her character. He used to cause mental and physical harassment to her. The prosecution has examined 13 witnesses in support of their case. PW-1 is the mother of the deceased and PW-2 is sister of the deceased, they have stated about the physical and mental harassment to the deceased by the applicant. The deceased died when she was staying with the applicant. Learned Sessions Judge has passed well reasoned Judgment and Order, hence requested to reject the application.

5. I have heard both the learned counsel. Perused impugned Judgment and Order. It appears from the evidence of PW-1 mother of the deceased

and first informant that, the applicant used to harass the deceased on suspecting her character. He was not allowing the deceased to talk with other person. When she received information of the said incident she went to hospital and she saw that deceased was kept on stretcher and no one from in-laws of her daughter were present there. In cross examination she admitted that when she had gone to hospital at that time applicant was also admitted in the hospital. She further admitted that the applicant had tried to give oral breathing to the deceased. PW-2 has stated the same facts. From the evidence of these witnesses, it appears that the applicant had tried to give first aid i.e. oral breathing to the deceased and he had admitted the deceased in the hospital. Considering these facts, as well as the applicant is a Government servant, if conviction is not stayed it will affect on his service, I pass following order.

ORDER

- i. The Interim Application is allowed.
- ii. The conviction imposed on the applicant is stayed till disposal of the appeal.

6. Interim application is disposed of.

(SHIVKUMAR DIGE, J.)