

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 912 OF 2023
WITH
INTERIM APPLICATION NO. 1749 OF 2024
IN
CRIMINAL APPEAL NO. 912 OF 2023

Rupesh Chhotelal Yadav ...Petitioner
Versus
State of Maharashtra ...Respondent

Mr. Sagar Tambe, advocate (Appointed through Legal Aid) for the
Petitioner.
Ms. Sharmila S. Kaushik, APP for the Respondent – State.

**CORAM: MANISH PITALE &
MANJUSHA DESHPANDE, JJ.**

DATED: 08 DECEMBER 2025.

PC:-

1. Heard learned counsel for the applicant and the learned APP for the respondent – State.
2. By this application, the applicant is seeking release on bail pending Appeal.
3. The Applicant (appellant) is aggrieved by the judgment and order dated 20.10.2022, passed by the Court of Sessions Nashik, whereby the applicant has been held guilty, *inter alia*, of offence under Section 302 of the Indian Penal Code (IPC) and he has been sentenced to suffer imprisonment for life.

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4. The learned counsel for the applicant submits that even according to the prosecution this is a case of circumstantial evidence, as there is no direct evidence in the form of the eye witness to the alleged incident. It is submitted that the prosecution case is based on evidence of P.W.10, who claims to have last seen the applicant in the company of the deceased on the date of the incident i.e. on 05.01.2021. It is submitted that P.W.5 and P.W.7 are the witnesses who claim that the applicant gave extra judicial confessions about his role in the incident.

5. The allegation against the applicant is that he was in the company of the deceased on 05.01.2021, and that both of them were drinking liquor. Thereafter, it appears that there was a quarrel between the two and in that backdrop the applicant used a heavy cement block to assault the victim on his head, which resulted in his death.

6. While inviting attention of this Court to the evidence of P.W. 5, P.W.7 and P.W.10, it was submitted that there were inconsistencies. It is further submitted that P.W.3, the witness pertaining to the CCTV footage, conceded that he could not give the exact timing of the footage. On this basis, it was submitted that the applicant has a strong *prima facie* case in his favour and therefore, this Court may consider enlarging him on bail.

7. On the other hand, the learned APP relied upon the evidence of the aforesaid witnesses, apart from bringing to the notice of this Court, that the Chemical Analysis Reports (CA Reports) reveal that the blood stains found on the clothes of deceased and the applicant demonstrated that the applicant was clearly involved in the

incident. It is submitted that the CCTV Footage, which was supported by recovery of Hard-disk as well as the Pen-drive in which the footage was recorded alongwith a Certificate under Section 65 B of the Evidence Act, indicated that there is strong evidence against the applicant about his presence and involvement in the incident even though there was no eye witness to the incident.

8. Attention of this Court is invited to the postmortem report, indicating the ferocity of the assault and the fact that injuries were caused to vital organ, like the brain of the victim, causing his death.

9. We have considered the rival submissions in the light of the evidence and material on record. P.W.10 has stated in his evidence that he had seen the applicant in the company of the deceased in the afternoon on 05.01.2021. The victim was found dead in the evening on the same day, thereby *prima facie* indicating that the applicant was last seen in the company of the deceased in proximaty to the point in time when the dead body of the victim was found. This is a crucial aspect of the matter. In cross – examination, the said witness has remained consistent with his version.

10. P.W.5 and P.W.7 stated in the evidence that the applicant had met them in the evening on the date of the incident and confessed about having assaulted the victim by means of a cement block. Although the learned counsel for the applicant submitted that there are inconsistencies in the evidence of the two witnesses,

prima facie, this Court is not impressed with the said contention. The evidence of the said witnesses appears to be natural.

11. The evidence of the prosecution witness with regard to the CCTV footage also supports the case of the prosecution. The CCTV Footage *prima facie* shows the presence of the applicant carrying a cement block. The CA Reports also *prima facie* show the involvement of the applicant in the incident in question.

12. Although, this is indeed a case of circumstantial evidence, the trial Court in the present case was alive to the situation and accordingly analysed the evidence and material on record to reach the conclusion that the prosecution had indeed proved its case against the applicant beyond reasonable doubt.

13. In view of the above, we do not find any merit in the present application and accordingly it is dismissed.

14. Hearing of the Appeal is expedited.

(MANJUSHA DESHPANDE, J.)

(MANISH PITALE, J.)