

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2929 OF 2024
IN
CRIMINAL APPEAL NO. 798 OF 2024**

Pratap Rupsing DatoreApplicant
Versus
The State of Maharashtra and Ors.Respondents

Mr. Aniket Nikam i/by Amit Icham - Advocate for the Applicant
Smt. M. H. Mhatre - APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 21st JANUARY 2025

P.C. :

1. This is an application for bail, pending appeal. The Applicant was the Accused No. 1 in Sessions Case No. 60 of 2018 before the Additional Sessions Judge, Malegaon. There were four other accused. Except the Applicant, all the other accused were acquitted. The Applicant was convicted for commission of offence punishable under Section 302 of the Indian Penal Code and was sentenced to suffer imprisonment for life and to pay fine of Rs. 2,00,000/- (Rs. Two Lakh only) and in

default to suffer rigorous imprisonment for three months. The Applicant was arrested on 27.01.2018 and since then he is in custody.

2. Learned counsel for the Applicant submitted that, there are three eye-witnesses i.e. PW Nos. 3, 7 and 8. Out of them, PW No. 7 is disbelieved by the learned Judge; as according to the learned Judge, there was no corroboration in his evidence. Learned Counsel submitted that a knife was recovered at the instance of the Applicant, however, there were no blood stains on the knife and even his clothes were seized, but there were no blood stains on the clothes. These are all important circumstances. It was submitted that there were other villagers and these independent witnesses were allegedly present at the time of the incident. But none of the independent witnesses is examined. There was no motive to commit the murder of the deceased. There is only one injury which would indicate that there was no intention to commit murder and if at all, it would be a much lesser offence than the one punishable under Section

302 of the Indian Penal Code. He submitted that the prosecution case does not appear to be true as there is doubt, as to why the dead body was kept lying for the period of two to three hours at the spot without the relatives of the deceased taking any steps to take her to the hospital.

3. Learned APP on the other hand submitted that there is direct evidence in the form of the eye-witnesses. The post-mortem note corroborates the evidence of the eye-witnesses. The Applicant was carrying a sharp weapon, and he had assaulted the deceased, therefore, considering the circumstances the Applicant does not deserve to be released on bail.

4. We have considered these submissions. The prosecution case is that the Applicant was given a land bearing Gat No. 164 at Kautikpade for cultivation. The land stood in the name of one Raikorbai. Her family had taken Rs. 60,000/- in that connection. Her family was supposed to pay interest on that amount. The prosecution case is that the victim and her family had paid Rs. 2,11,000/- in that connection and they were expecting the land to

be returned to them for cultivation. The present Applicant and his family members were opposing this. He wanted to continue cultivation of that land. Because of this, the incident in question took place on 27/01/2018. The victim's family had gone to the said land. At that time, the Applicant came to the land and told the victim's family that he would cultivate the land for next four years. The victim's family told him that they had already repaid the entire amount, and they should be given back the land. The Applicant removed a knife and started assaulting the family of the victim. The deceased- Raikorbai was given a blow with knife on her chest. She succumbed to the injuries. The incident is narrated by PW No. 3-Madhukar Thange, who had lodged the F.I.R. which is produced at Exh. 56. PW No. 7-Kautik Thange and PW No. 8-Sunita have deposed in support of the prosecution. We find that there is consistency in their description particularly, in regard to the assault by a knife committed by the Applicant.

5. All these witnesses state that the Applicant had brought a knife and had assaulted the deceased with a knife. The injuries mentioned in the post-mortem report show that Raikorbai has suffered one CLW of 3 X 2 cm and depth was 10 X 15 cms. and there was injury over left side of the chest. The cause of death was directly attributed to the grievous injury causing death due to cardio-respiratory failure due to haemorrhagic shock. Thus, it can be seen that the injury was quite deep and was inflicted with much force. There cannot be any other intention but to commit murder. The Applicant had brought a knife and was threatening other witnesses also. The evidence of PW No. 7 is in fact supported by the evidence of PW Nos. 3 and 8.

6. Learned counsel for the Applicant produced a copy of the F.I.R. for our perusal. He conceded that the actual assault on the deceased by the Applicant is described in the F.I.R..

7. Considering the gravity of the offence and direct evidence of three eye-witnesses, the Applicant does not deserve to be released on bail pending his appeal. The other submissions

infirmities regarding recovery of a knife and recovery of the clothes; pales in comparison to the direct evidence.

8. Hence, no case for grant of bail pending appeal is made out. The application is dismissed.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)