

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3244 OF 2024
IN
CRIMINAL APPEAL NO. 1065 OF 2018

Rohit Ramesh Makwan

...Applicant

V/s.

The State of Maharashtra

...Respondent

.....
Mr. Ramesh Dube-Patil i/b. Jay and Co. for the Applicant.
Mr. Tanveer Khan, APP for the State.
.....

CORAM : N.R. BORKAR &
SHYAM C. CHANDAK, JJ.
DATED : 25th APRIL, 2025.

P.C.

- 1) Heard learned counsels for the parties.
- 2) By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal. The applicant is convicted vide judgement & order dated 18.07.2018 passed by the learned Additional Sessions Judge-3, Nashik, for an offence punishable under Section 302 of the Indian Penal Code, 1860 ("I.P.C.") and sentenced to suffer imprisonment for life and fine of Rs.5,000/-, in default, to suffer simple imprisonment for two months.
- 3) As revealed from the evidence on record, it is the case of the prosecution that, the deceased was the wife of the

Applicant/Appellant-accused (referred to as the applicant hereinafter). Their marriage was solemnized in the year 2008. Thereafter, the applicant often abused and assaulted the deceased under the influence of liquor. The deceased used to inform about the said ill-treatment to her family over the phone. About one to two years after the marriage, the Applicant had assaulted the deceased and dropped her at her maternal aunt's house. About two to three days prior to the incident the Applicant had taken his children to his parent's house and when the deceased went there to meet her children, her parents-in-law and others did not talk with her. On the date of incident which took place on 13.04.2015, at about 11:30 to 12:00 hours, PW2-Geetabai, mother of the deceased spoke with the deceased on the phone. At that time the deceased told PW2 that she desired to come to her place. However, on the same day, before 5:35 p.m., the Applicant committed the murder of the deceased by strangulating her, at his house. Thereafter, the Applicant wrote a note, wherein he confessed the present crime and stated that, he wanted to commit suicide.

4) It is an admitted fact that, the Applicant is in custody since 14.04.2015 and as of today has undergone incarceration for a period of more than 10 years. The Appeal is not likely to be heard in the near future. It is not the scenario that the Appeal came up for hearing but the Applicant is seeking adjournment rather than arguing the Appeal. As such, it appears that, the Appeal may take time for final hearing.

5) After applying the test enunciated by the Hon'ble Supreme Court in the cases **(i) Suleman Vs. The State of Uttar Pradesh¹** and **(ii) Dinesh @ Paul Daniel Khajekar Vs. State of Maharashtra and Anr.²**, the Applicant is entitled to be released on bail during pendency of the Appeal.

6) In view of the above observations and findings, Interim Application is allowed in the following terms and conditions:-

- i. During the pendency of the Appeal, the substantive sentence imposed upon the Applicant is suspended;
- ii. Applicant is directed to be released on bail in C. R. No.22 of 2015, dated 13.04.2015 registered with Deolali Camp Police Station, District Nashik, upon furnishing P.R. Bond in the sum of Rs.50,000/- with one or two local sureties in the like amount;
- iii. After his release from jail and during the pendency of the present Appeal, the Applicant shall attend Deolali Camp Police Station, District Nashik, once a month on the first Monday between 10.00 a.m. and 12.00 p.m. till disposal of the Appeal.

[SHYAM C. CHANDAK, J.]

[N. R. BORKAR, J.]

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1 Criminal Appeal No.491 of 2022 decided on 25.03.2022

2 Criminal Appeal No. 2987 of 2023 decided on 25.09.2023