

Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3544 OF 2024
IN
CRIMINAL APPEAL NO. 961 OF 2024

Tanmay Pravin Dhanva ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Aniket Vagal a/w Savvy Kolhekar, Mr. Kunal Pednekar and Ms.
Juhi Kadu, for the Applicant.

Ms. Priyanka S. Rane, APP, for the Respondent-State.

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

DATED: 4th AUGUST, 2025.

PC:-

1. Heard Mr. Aniket Vagal, learned counsel appearing for the Applicant/Appellant. Also heard Ms. Priyanka Rane, learned APP for the Respondent-State.

2. By the judgment and order dated 16th August, 2024, passed by the learned Additional Sessions Judge, Nashik, in connection with Sessions Case No. 168 of 2021, the applicant herein was convicted under Section 302 of the Indian Penal Code ('IPC' for short) and sentenced to undergo rigorous imprisonment for life

and also to pay fine of Rs.10,000/- with default stipulation for committing the murder of victim-Archana.

3. Assailing the judgment dated 16th August, 2024, the applicant has preferred Criminal Appeal No. 961 of 2024, which is pending disposal before this Court.

4. The applicant is in jail. The present application has been filed under Section 389 of the Code of Criminal Procedure ('Cr.P.C.' for short), with a prayer to suspend the jail sentence of the applicant and also to release him on bail.

5. By referring to material on record, Mr. Vagal, learned Counsel for the applicant, has argued that the incident had occurred purely due to a quarrel between the accused and the deceased leading to a scuffle between the two leading to the head injury and her death. He submits that there was no premeditation in this case and the death of the deceased was caused due to the injuries sustained during the scuffle. Contending that this is a clear case where the incident had occurred on a heat of passion and without any premeditation, Mr. Vagal, learned Counsel for the applicant, submits that this is a case of conversion of the conviction of the applicant under Section 304-II of the IPC with reduced jail sentence.

6. Mr. Vagal has further argued that the applicant is 24 years old young man and after completing his B. Pharm, he is desirous of

pursuing higher studies i.e. course of M.Pharm as well as a course in Journalism. Moreover, during trial the applicant was on bail granted by this Court, but he has not misused his liberty nor violated the bail conditions. According to Mr. Vagal, there is also no scope of the applicant absconding during pendency of the appeal and his client will abide by any condition that is imposed by the Court while granting bail. The learned Counsel has also submitted the requisite documents in support of his above arguments.

7. While opposing the submissions advanced by the learned Counsel for the applicant, Ms. Rane, learned APP, has argued that from the postmortem report, which shows 23 injuries on the body of the victim, as well as from the testimony of PW-1, it is clear that the accused had intentionally caused death to the deceased by mercilessly assaulting her. Therefore, this is not a case of conversion of conviction under Section 302 of the IPC and reduced sentence. Contending that the life of a young girl has been lost for no fault of her own, the learned APP has strongly opposed the bail prayer.

8. We have considered the submissions made at bar and have also carefully gone through the material on record. It is no doubt correct that the postmortem report indicates as many as 23 injuries on the body of the victim. However, from the evidence of PW-3 i.e. the doctor, who had conducted the postmortem examination, it appears that the death was caused due to the combined effect of

asphyxia due to manual strangulation (throttling), smothering and cerebral damage due to blunt trauma on the head. There is evidence available on record to show that there was a scuffle between the accused and the deceased, which lead to the physical assaults on the victim. It is possible that in the said process, the deceased had hit her head against the wall and thus received fatal head injury.

9. Be that as it may, from the evidence on record it appears that the incident took place in the intervening night of 12th January, 2021 and 13th January, 2021, on which day, the accused and the victim had checked-in the Hotel City Palace at Nashik. The accused was very well known to the victim as they were classmates and apparently they had also developed a love affair. However, it appears that the possibility of a third person getting involved in the life of the victim had enraged the accused/applicant. It further transpires from the evidence of PW-1 that on the afternoon of the incident, at around 1:30 p.m. the accused had come to the victim and protested against her involvement with another young man. It has also come out from the evidence of PW-1 that after the accused and the victim had checked-in to the hotel, the accused had informed the PW-1 over phone that the victim is with him and if the family members enquire about her, she should inform them that the victim is with him.

10. From the above, what can be inferred is that, there is a strong possibility that the unfortunate incident leading to the

tragic loss of life of a young woman, i.e., victim was the outcome of a scuffle between the accused and the deceased, which might have occurred under such circumstances wherein passion was running very high between them due to the perceived notion of involvement of another man in the life of the victim. Evidence on record *prima facie*, do not indicate of any premeditation on the part of the accused to cause death to the victim. The accused was not trying to conceal the fact that the victim was with him just prior to the incident.

11. It is no doubt correct that the presence of 23 injuries on the body of the victim would paint a picture to show that the accused had acted with some degree of cruelty. However, as noted above, there is no evidence to indicate premeditation on his part. Rather, the evidence on record indicates absence of premeditation. Whether the evidence on record is sufficient to sustain the conviction of the applicant under Section 302 of the IPC can be assessed only at the time of final hearing of appeal, which is likely to take some time. However, from a preliminary scrutiny of the evidence, we are of the tentative opinion that the possibility of the incident taking place in a heat of passion, without any premeditation and due to a simmering tension between the applicant and the victim pertaining to their love affair cannot be completely ruled out in this case.

12. In addition to the above, we have taken note of the submission of the learned Counsel for the applicant that

considering the young age of the applicant, he be permitted to pursue his higher studies. We have also noted that by an order dated 19th January, 2024, passed in Bail Application No.1132 of 2024, the applicant was allowed to go on bail during the trial and he has not violated the bail conditions. These circumstances also favaourable weigh with us for considering the bail application filed by the applicant.

13. For the above reasons, we are inclined to suspend the jail sentence of the applicant and also to release him on bail. We, however, make it amply clear that the observations made here-in-above are *prima facie* in nature and shall not have any bearing during the final hearing of the appeal.

ORDER

(a) The applicant- Tanmay Pravin Dhanva shall be released on bail in connection with C.R. No. 11 of 2021 registered with Sarkarwada Police Station, Nashik (Sessions Case No. 168 of 2021) on furnishing P .R. bond of the sum of Rs.1,00,000/- with one or two sureties in like amount, to the satisfaction of the learned Trial Court.

(b) The applicant shall not leave the jurisdiction of Nashik District without the prior permission of the trial Court.

(c) The applicant shall appear before the concerned police station on the first Saturday or Monday of every month in between 1:00 p.m. and 5:00 p.m. and record his presence.

(d) The Applicant shall ensure due representation before this court through his engaged counsel as and when the connected appeal is taken up for hearing.

14. We make it clear that violation of any of the above condition(s) may invite an order cancelling the bail granted by this Court.

15. With the above observations, the Interim Application is allowed and stands disposed of .

(SHYAM C. CHANDAK, J.)

(SUMAN SHYAM, J.)