



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [APPA] No.182 of 2024

in

Criminal Appeal No.100 of 2024

Amarraj s/o Jangluji Meshram

vs.

State of Maharashtra, through P.S.O. Khaparkheda, Dist. Nagpur

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. Mir Rizwan Ali, Advocate for the Applicant/Appellant.

Mr. S.A. Ashirgade, A.P.P. for the Non-Applicant/Respondent.

CORAM : **ANIL L. PANSARE & M.M. NERLIKAR, JJ.**

RESERVED ON : **12th AUGUST, 2025.**

PRONOUNCED ON : **14th AUGUST, 2025.**

Heard.

02. The present application under Section 389 of the Code of Criminal Procedure (Cr.P.C.) for suspension of sentence is filed by applicant- Amarraj Meshram, since he was convicted in Sessions Case No.209/2017 for the offences punishable under Sections 302 and 201 of the Indian Penal Code by the learned Additional Sessions Judge, Nagpur vide judgment and order dated 11/07/2023.

03. The prosecution case in nutshell is that the appellant and his wife Sonali were residing at Vishwas Nagar, Gittikhadan, Nagpur in one of the rooms of house owned by Gangadhar, father-in-law of the applicant. Deceased-John was also residing in another room of the said house. The applicant suspected illicit relationship between the deceased and Sonali. Therefore, on 09/01/2017, in the morning hours, the appellant took the deceased on his bike firstly to liquor shop at Gattikhadan Square and insisted him to consume liquor. On ensuring that the deceased was completely under the influence of liquor, the appellant took the deceased to a secluded place besides Walni Police Chouki and committed murder of the

deceased by smacking his head by means of stone repeatedly to ensure his death. On the very next day i.e. on 10/01/2017, by adopting the same *modus operandi*, the applicant committed murder of his wife-Sonali.

04. This Court by an order dated 09/02/2024 was pleased to admit the appeal. We have heard the learned Counsel for the applicant as well as the learned A.P.P. for the State. We have also gone through the evidence placed on record.

05. The learned Counsel for the applicant submits that the case is based on circumstantial evidence and the circumstances as are discussed in the judgment are not duly proved, there are several missing links in the chain of circumstances. He further submits that though the death of deceased-John was homicidal and caused due to smacking by means of stone, there is no evidence to show that the murder was committed by the applicant on 09/01/2017. Therefore, the finding of the trial Court to that effect is perverse. He further pointed out that the evidence of last seen is of no consequence in view of the fact that the dead body was found after four days. Deceased-John was seen in the company of the applicant on 09/01/2017 at about 08:30 a.m., whereas the dead body was found on 13/01/2017 and, therefore, there is no evidence on record to show the proximity between last seen theory and discovery of the dead body. This vital circumstance has not been considered by the trial Court while arriving at the conclusion that the murder of the deceased was committed on 09/01/2017.

06. On the contrary, the learned A.P.P. vehemently opposed the application by submitting that the relations between the applicant and the deceased were strained, as the applicant was suspecting illicit relationship between his wife-Sonali and the deceased. Therefore, the applicant has a strong motive to commit murder of the deceased. The applicant committed murder by smacking the head of the deceased by means of stone repeatedly to ensure his death. He further submitted that the deceased and the applicant were last seen together on 09/01/2017, which is of significance, as

can be gathered from the evidence of PW-1, PW-4, and PW-6. Further, there is recovery of two stones, which were used for smacking the head of the deceased, at the behest of the applicant, one from the ground of Chanakpur and another from nallah with the help of JCP machine. Another circumstance linking the applicant to the murder is that the applicant has also committed murder of his wife-Sonali as he suspected illicit relationship between his wife-Sonali and the deceased and two bodies were found at different places. All these circumstances are duly proved by the prosecution by adducing cogent evidence and, therefore, the applicant is not entitled for suspension of sentence.

07. Upon consideration of the rival submissions and after going through the evidence on record, *prima facie*, we find that the death of the deceased is homicidal. However, there is no proximity between the last seen theory and discovery of dead body which was recovered after four days. The medical evidence is also silent as to the time of death. This is a vital missing link in order to connect the theory of last seen with the murder of the deceased. Therefore, it is difficult to accept the date of death of deceased-John was 09/01/2017. Thus, the applicant has an arguable case. Further, the applicant has already undergone eight years of imprisonment and the possibility of hearing the present appeal in near future is less.

08. Therefore, considering the above facts and circumstances, we are inclined to suspend the substantive sentence of the applicant. Hence, the following order:

ORDER

- i. The substantive sentence of the applicant is hereby suspended till conclusion of the appeal.
- ii. The applicant be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and a solvent surety of like amount.

- iii. The applicant shall remain present as and when required by this Court.
- iv. The applicant shall report to the nearest Police Station once in a month i.e. on third Sunday of every month in between 11:00 a.m. and 05:00 p.m.
- v. The application is allowed and disposed of in the above terms.

(M.M. Nerlikar, J.)

(Anil L. Pansare, J.)

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