



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

CRIMINAL APPLICATION (APPA) NO.198/2024

IN

CRIMINAL APPEAL NO.626/2023

Pravin @ Pradip s/o Ramesh Pohankar

Vs.

The State of Maharashtra, through Police Station Officer, Police Station,
Daryapur, Tq. Daryapur, District Amravati

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Ms S.H. Bhagat, Advocate instructed by PR. Agrawal, Advocate for applicant
Shri A.B. Badar, APP for Non-applicant/State

**CORAM : ANIL L. PANSARE AND
SIDDHESHWAR S. THOMBRE, JJ.**

DATE : 08.09.2025

1. Heard Ms S.H. Bhagat, learned Counsel for the applicant/appellant, and Shri A.B. Badar, learned APP for the non-applicant/State.
2. The applicant/appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short 'I.P.C.'). He has been sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.10,000/- (Rupees Ten Thousand only). In default of payment of fine, the applicant has been further directed to suffer simple imprisonment for three months.
3. The prosecution case in short is that pursuant to a complaint lodged by one Sanjay Shankarrao Saurkar with the Police Station, Daryapur, on 05.09.2019, wherein he

alleged that his sister namely, Sonali Pravin Pohankar, had married with one Pravin Ramesh Pohankar prior to 10 years. She was treated well for one month. However, as Pravin was addicted to alcohol and used to suspect the character of Sonali, on 2 to 3 occasions, meetings were conveyed in presence of reputed persons of the village and he was advised to change his habits. Thereafter, Sonali was treated well for some days, but, again ill-treatment was continued. On the day of incident, younger brother of Pravin, namely, Yogesh called him at 7.00 a.m. and informed that a quarrel had started between Sonali and Pravin and in that scuffle, Sonali was injured by Pravin by iron pestle. It was informed that injured Sonali was shifted to Hospital of Dr. Bhattad and he was asked to come to the hospital. During the transit, he again received a phone call from Yogesh that Sonali died. He filed the complaint and on the basis of the complaint, the offence punishable under Section 302 of the IPC vide it's Crime No.125/2019 came to be registered against the applicant/appellant.

4. After registration of the crime, the investigating officer conducted the investigation and submitted the charge-sheet. Trial Court framed the charge. The applicant/appellant pleaded innocence and claimed to be tried.

In order to bring home the guilt, the prosecution examined in all 9 witnesses. PW-1 Sanjay Shankarrao Saurkar, who lodged the complaint, PW-2 Ishwardas

Fulchand Solanke, who is the spot panch witness, PW-3 Meera Ramesh Phankar, PW-4 Saurabh Santosh Warulkar, PW-5 Dr. Radhika Ramsingh Suryawanshi, PW-6 Yogesh Ramesh Pohankar, PW-7 Satish Madhukarrao Patre, PW-8 Dr. Gunjan Dadarao Gulhane and PW-9 Sachin Ashokrao Ingle. The statement of the applicant/appellant under Section 313 of the Code of Criminal Procedure, 1973 was recorded.

5. After considering the evidence led by the prosecution, the learned Session Court, vide judgment and order dated 18.03.2023, convicted the applicant/appellant and directed him to suffer rigorous imprisonment. The appeal came to be admitted by this Court on 13.09.2023 and it will take time to decide it finally.

6. The learned Counsel for the applicant submitted that the case is based on the circumstantial evidence. In all total 9 witnesses were examined by the prosecution to prove the case against the applicant. But the prosecution failed to prove the case beyond reasonable doubt.

7. Learned Counsel for applicant further submitted that applicant never misused the liberty granted by the Trial Court while releasing him on bail during the trial and from the date of conviction, he is in jail. There is no possibility of the applicant running away from the course of justice. He further submitted that he is ready to undertake and abide by the any conditions that may be imposed by this Court

while suspending the substantive sentence.

8. Learned APP opposed the application and submitted that the Trial Court has considered the entire evidence and rightly convicted the applicant.

9. We have gone through the evidence led by the prosecution as well as the judgment and the finding recorded by the learned Trial Court. The learned Trial Court, relied on the circumstances of the prosecution that it was Pravin who was last seen with the deceased Sonali. Sonali had 9 injuries on her head and accused Pravin had one injury on his head. As far as 3 eye-witnesses i.e. PW-3 Meera Ramesh Pohankar, PW-4 Saurabh Santosh Warulkar and PW-6 Yogesh Ramesh Pohankar, examined by the prosecution are concerned, they have not supported the case of the prosecution. On the contrary, as per the evidence of PW-6 Yogesh Ramesh Pohankar, he has categorically stated that he received a call from Saurabh Warulkar who told that there was a quarrel going on between Pravin and his wife. He further stated that, *"I came home. I had seen from window that Pravin and his wife were assaulting each other. My brother had sustained injury on his head. My sister-in-law had also sustained injures. She had assaulted herself."*

In fact, learned Trial Court had not recorded any finding as to why the learned Trial Court is discarding the evidence of PW-6. The learned Trial Court, while

considering the entire evidence, ought to have recorded the finding that why the theory of inflicting self-injury by the deceased was not considered. Therefore, in our view, the arguable case is made out and at the time of deciding the appeal finally, the entire evidence needs to be re-appreciated.

The Trial Court discarded the theory of the accused that Sonali had self inflicted injuries and also discarded the statement of the applicant/appellant recorded under Section 313 of the Cr.PC.

10. Considering the overall evidence of the prosecution and after going through the record, *prima facie*, we find substance in the argument advanced by the learned Counsel for the applicant that the case is made out for suspension of sentenced till this Court decides the appeal on its own merits. He is in jail from the date of arrest i.e. from 06.06.2019. Further, considering the pendency, the appeal is not likely to be heard in near future. Hence we proceed to pass the following order:

ORDER

- i) This Criminal Application is allowed.
- ii) The sentence of conviction passed by the learned Additional Session Judge, Court No.2, Achalpur, in Session Case No.166/2019, convicting the applicant under Section 302 of the I.P.C. stands suspended.

iii) The applicant Pravin @ Pradip s/o Ramesh Pohankar, shall be released on bail on his furnishing Personal Recognizance Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

iv) The applicant shall not indulge into any illegal activities. The applicant shall attend the jurisdictional police station viz., police Station- Daryapur, District Amravati, on first Monday of every month between 11.00 a.m. to 1.00 p.m.

v) The applicant shall appear before the Court as and when directed. The applicant shall monitor progress of appeal and shall appear before the Court on the date of final hearing of appeal.

vi) The learned APP of the investigation officer is at liberty to seek cancellation of bail, if any of the conditions is breached or for any other sufficient reason.

11. The application is disposed of in terms of above.

(SIDDHESHWAR S. THOMBRE, J.)

(ANIL L. PANSARE, J.)