



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1614 OF 2025
IN
CRIMINAL APPEAL No. 324 of 2025**

**PRADIP PRALHAD LAD
VERSUS
THE STATE OF MAHARASHTRA**

....
Advocate for the applicant : Mr. S. R. Bagal h/f Adv. Bharat N.
Gadegaonkar
A.P.P. for Respondent/State : Mr. S.P. Sonpawale
....

**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

DATED : FEBRUARY 03, 2026

ORDER:-

1. Heard rival submissions.
2. By this application, the applicant, who is the original accused No.1 in Sessions Case No. 110 of 2022, is seeking suspension of his substantive sentence of life imprisonment, during the pendency of this appeal and also his release on bail.
3. As per the prosecution story, the applicant/accused got married with one Sonali i.e. the daughter of the informant Vishnu Satkar. However, the applicant and other accused started ill-treating her. Sonali had started residing with the

informant i.e. her father, prior to 15 days of lodging of the F.I.R. However, the applicant then convinced the informant and took Sonali with him. However, on 17.02.2022 at about 12.30 a.m., the applicant informed his father-in-law on phone that Sonali was lying on the bed without any movement and she was not talking. Thereafter, the informant and his family members went to the house of the applicant and noticing the ligature mark on throat of Sonali, he reported the incident to the police. When Sonali was taken to the doctor, she was declared dead. Accordingly, the informant lodged report against the applicant and his family members, alleging that they tortured her on account of demand of Rs. 1,00,000/- and ultimately committed her murder.

4. The learned counsel for the applicant submits that, there is no eye witness to the incident and the case is entirely based on circumstantial evidence. According to him, the prosecution has not established the entire chain of circumstances leading to the guilt of applicant/accused and the learned Trial Judge wrongly placed burden upon the applicant to offer a plausible explanation in respect of death of Sonali. According to him, no demand was proved and the presence of the accused on the spot of incident also could not be proved by the prosecution. He pointed out that the

applicant and other accused have already been acquitted from the charge under Sections 498-A, 304-B, 323 read with Section 34 of the Indian Penal Code, and therefore, there is no logic in convicting the applicant for the offence under Section 302 of the Indian Penal Code. He pointed out that, the prosecution did not prove the last seen theory and in absence of the presence of applicant on the spot of incident at the time of incident, no aid of Section 106 of the Indian Evidence Act can be sought for convicting him. He also pointed out that the prosecution did not prove the motive, which is necessary in the case based on circumstantial evidence. For that purpose, he relied on the observations of the Hon'ble Apex Court in the case of **Shivaji Chintappa Patil Vs. State of Maharashtra [AIR 2021 Supreme Court 1249]**, which reads as thus :-

“22. It could thus be seen, that it is well-settled that Section 106 of the Evidence Act does not directly operate against either a husband or wife staying under the same roof and being the last person seen with the deceased. Section 106 of the Evidence Act does not absolve the prosecution of discharging its primary burden of proving the prosecution case beyond reasonable doubt. It is only when the prosecution has led evidence which, if believed, will sustain a conviction, or which makes out a prima facie case, that the question arises of considering facts of which the burden of proof would lie upon the accused.

5. He also relied on the judgment of Hon'ble Apex Court in the case of **Nusrat Parween Vs. State of Jharkhan [2024 SCC OnLine SC 3683]** wherein following observations are made :-

*"9. Firstly, we proceed to consider the theory of motive. It is trite law that proof of motive is not sine que non in a case of murder. However, in a case based purely on circumstantial evidence, motive if properly established, assumes great significance and would definitely provide an important corroborative link in the chain of incriminating circumstances and strengthen the case of prosecution. The reliance in this regard may be placed on the case of **Nandu Singh Vs. State of Chhattisgarh.***

16. The second circumstance on which the prosecution relied upon was the theory of 'last seen together', thereby, trying to shift the burden of proof by virtue of Section 106 of the Evidence Act and placing the accused-appellants under the onus to explain the circumstances under which Hamida Parween (deceased) was found murdered in the house by manual strangulation.

17. It is a cardinal principle of criminal jurisprudence that Section 106 of the Evidence Act shall apply and the onus to explain would shift on to the accused only after the prosecution succeeds in establishing the basic facts from which a reasonable inference can be drawn regarding the existence of certain other facts which are within the special

knowledge of the accused. When the accused fails to offer a proper explanation about the existence of the said other facts, the Court can draw an appropriate inference against the accused. In cases based on circumstantial evidence, the accused's failure to provide a reasonable explanation as required under Section 106 of the Evidence Act can serve as an additional link in the chain of circumstantial evidence- but only if the prosecution has already established other essential ingredients sufficient to shift the onus on to the accused. However, if the prosecution fails to establish a complete chain of circumstances in the first place, then the accused's failure to discharge the burden under Section 106 of the Evidence Act becomes irrelevant."

6. Per contra, the learned A.P.P. strongly opposed the submissions made on behalf of the applicant. According to him, the murder was committed during the odd hours and that too in the bed-room of applicant. According to him, the applicant himself had told the informant about his wife lying unconscious. The learned A.P.P. further submitted that, it was residential house of the applicant where the murder was committed. According to him, the death of Sonali was homicidal as per the medical evidence on record and though it was contended by the applicant that she committed suicide, but there is no supporting material for such theory. On the contrary, as per the medical evidence, the death of Sonali was

found to be due to 'Manual Strangulation' with the help of rope, which was recovered from the spot of incident and the scientific evidence also supported the same. Thus, the learned A.P.P. submitted that all the circumstances led to the only conclusion that the applicant must have killed his own wife.

7. On going through the notes of evidence as well as impugned judgment, it is to be noted that Sonali died at odd hours and that too, in the house of accused. Moreover, though the applicant took defence of committal of suicide by Sonali, but the circumstances found on the spot were not so since it was nobody's case that Sonali was found hanging by the rope. On the contrary, it appears that, the applicant himself had intimated the informant that he found Sonali lying unconscious on the bed. Had it been the defence of applicant that Sonali committed suicide, then the scenario on the spot would have been otherwise. Under such circumstances, a plausible explanation in what circumstances Sonali died, is bound to come from the applicant only. The applicant except denial and theory of suicide, did not discharge the said burden.

8. It is extremely important to note that, the learned Trial Judge has differentiated between hanging and manual

strangulation and ultimately asked applicant to explain in what circumstance Sonali died. Moreover, the medical evidence as well as scientific evidence also supported the case of the prosecution. Under such circumstances, even though the case is based on circumstantial evidence, but it has come on record that there was no chance of involvement of third person in the crime. Therefore, considering the *prima facie* material against the applicant, we are not inclined to suspend substantive sentence of life imprisonment of the applicant, by applying the observations of the Honb'le Apex Court in the aforesaid cases, which have come under different facts. In view of the same, the application stands rejected.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

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