

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRI. INTERIM APPLICATION NO. 5058 OF 2024
IN
CRI. APPEAL NO. 1286 OF 2024

Mohan Ananda Barad

... Applicant

Versus

The State of Maharashtra

... Respondent

.....
Mr. Abhishek R. Avachat a/w Mr. Rajdeep P. Shitole for the Applicant.

Mr. Shrikant Yadav, APP for the Respondent - State.
.....

**CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.**

DATE : 12th MARCH, 2026.

P. C. :

1. The Interim Application is taken out for suspension of sentence and for grant of bail. In the Appeal, challenge is to the Judgment and Order dated 21st November 2024 passed by the learned Additional Sessions Judge, Kolhapur at Kolhapur in Sessions Case No. 148 of 2021.

2. By the impugned order, the Applicant has been convicted for the offence punishable under Section 302 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for life and to pay fine of Rs.5,000/-.

3. As per the prosecution case, deceased Maruti is the elder brother of the Applicant and frequently disputes used to take place between them on the ground that the deceased was addicted to alcohol and was not contributing towards the household expenses. On the day of incident, the said quarrel escalated to such an extent that the Applicant killed the deceased by using a scythe which was available at the spot.

4. It is the submission of Mr. Avachat, learned Counsel appearing for the Applicant that it is a case of circumstantial evidence. The prosecution case rests on the circumstances namely, extra judicial confession made to Police Patil by the accused, recovery of weapon as the memorandum statement of the accused made under Section 27 of the Evidence Act, last seen together as PW Nos. 1, 2, 4, 5 and 7, have found the Applicant standing at the spot of the incident next to the deceased, motive as per the evidence of PW 5 and 7 is that deceased was addicted to liquor and he was not contributing financially towards house hold expenses, which laid to frequent quarrels between the two brothers. Perusal of the record shows that even as per the prosecution case, there used to be frequent quarrels between the Applicant and the deceased, who are real brothers on the issue that the deceased was addicted to liquor and not contributing towards household expenses. Even as per the prosecution

case, since the deceased was addicted to liquor and was not contributing financially to the household, frequent quarrels used to take place between the two brothers. On the day of the incident, the quarrel escalated to such an extent that the Applicant allegedly killed the deceased by using a scythe which was available at the spot. Thus, *prima facie*, the incident has taken place on the spur of moment.

5. This is a case of circumstantial evidence. One of the circumstance is extra judicial confession made to the Police Patil by the accused and another circumstance is last seen together. However, as the Applicant and the deceased are real brothers and the incident took place outside the house, therefore, there is substance in the contention raised by the Applicant that this circumstance is not relevant.

6. Admittedly, the Applicant has no other criminal antecedents. In fact, the Applicant was the earning member of the family. The Applicant is behind bars from 18th August 2020 and he has completed about 5 years and 6 months. Considering the pendency of old Appeals in this Court, Appeal filed by the Applicant is not likely to come up for final hearing in near future.

7. Thus, in the facts and circumstances, the case is made out for suspension of sentence and release of the Applicant on bail during the pendency of Appeal. Hence, we pass following order :

ORDER

[a] The sentence imposed on Applicant by learned Additional Sessions Judge, Kolhapur vide judgment and order dated 21st November 2024 passed in Sessions Case No. 148 of 2021 is suspended till the final disposal of Criminal Appeal No. 1286 of 2024.

[b] The Applicant be released on bail on furnishing PR bond in the sum of Rs.10,000/- with one or more solvent sureties of like amount in connection with Sessions Case No. 148 of 2021.

[c] Till the disposal of Criminal Appeal, the Applicant shall report to the Trial Court once in three months i.e. on first Monday of relevant month.

[d] The Applicant shall attend this Court when the Appeal is listed for final hearing.

8. Interim application stands disposed of.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]