

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3730 OF 2025
IN
CRIMINAL APPEAL NO.1183 OF 2022

Roshan Bhimrao Rathod
Versus
The State of Maharashtra

...Applicant
...Respondent

.....

*Adv. Anush Shetty a/w Adv. Rahul P. Sagar i/b Dr. Yug Mohit choudhary,
for Applicant.
Mr. Mr. A. S. Shalgaonkar, APP for the Respondent-State.*

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CORAM : R.G. AVACHAT &
AJIT B. KADETHANKAR, JJ.

DATE : 6th FEBRUARY 2026.

PC:

1. This is an application for suspension of the execution of substantive sentence of life imprisonment.
2. The applicant was one of the four accused tried for the offences punishable under Sections 302, 307, 397 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC'). All the four accused were convicted for the offences with which they were charged and consequently sentenced to suffer life imprisonment and term sentences as well.

3. In short, the case of the prosecution and which has even been proved in the trial is that -

i) Reshma (PW-3-Informant) and Sunanda were real sisters. Both of them were married. Their parents house was at village Kamati Khurd, Tq. Mohal, Dist. Solapur. In the month of May-2002, there was a village fair, at Kamati Khurd. The fair was of Goddess Mariaai. Both Reshma and Sunanda had, therefore, been to the village Kamati Khurd.

4. On 3rd May 2015 by 9:30 a.m., both Reshma and Sunanda left the house for the respective matrimonial houses. As they missed bus at Godbole High School Bus Stop, both of them proceeded towards the Kamati Khurd bus stand. While they were on the way to bus stand, one ash coloured Jeep, like Trax or cruiser came from behind. The Jeep halted in response to their signal. There were four persons in the Jeep. One of them was at driver seat, other three where on the middle. Two of the three on the middle seat alighted from the Jeep. Both Reshma and Sunanda boarded the jeep. One of the two alighting from the Jeep sat on the back seat, the other one took a seat by the side of Reshma. The Jeep proceeded, after a while the person who had occupied a back seat, encircled a rope around the neck of Reshma and attempted to strangle her. Reshma thereby became unconscious. When she gained consciousness, she found herself lying on the barren field and Sunanda was lying in the nearby. Their ornaments, purse and cellphones were

missing. With the assistance of the passerby, Reshma came to the village. Some of the villagers and Reshma came back to the field wherein Sunanda was lying. Sunanda was rushed to the hospital, she was, however, declared dead.

5. Reshma lodged First Information Report. The applicant and other three were arrested. They were subjected to test identification parade. PW-3-Reshma, identified them in the test identification parade and before the Court as well. The Jeep, some stolen ornaments and cellphones were recovered at the instance of the original accused Nos.1 and 3.

6. As stated above, on appreciation of the evidence, the Trial Court held that the charge was proved.

7. Learned counsel for the applicant would submit that for little 11 years, the applicant is in jail. Nothing has been recovered at his instance. No overt act has been attributed to him. The case was based on sole eye-witness account. The FIR was lodged against unknown persons. No descriptions of the culprits were given in the FIR. Test identification of the seized ornaments was not made during the investigation. The test identification parade of the applicant and three other co-convicts was held about two and half months after their arrest. The learned Advocate, therefore, urged for grant of application.

8. The learned APP for the respondent-State would on the other

hand submit that serious offence has been committed by the applicant and co-convicts. The applicant is none other than the son of the original accused No.1, who owned the vehicle involved in the crime. PW-3 was a injured eye-witness. She identified the applicant in the test identification parade and before Court as well. According to learned APP, although no overt act appears to have been attributed to the applicant, it is he, who owns the explanation as to how did. Reshma suffer injuries and Sunanda died. Moreso, when the evidence undoubtedly indicate that he was one of the four in the Jeep. He therefore, urged for rejection of application.

9. We have considered the submissions advanced and perused the evidence relied on and also the judgment impugned herein.

i) The FIR was lodged by an injured eye-witness. The case based on sole eye-witness account. The FIR was lodged against the unknown persons. In the evidence, PW-3-Reshma, testified that the three of the four culprits, were in the age group of 30 years. Whereas, according to the applicant and the prosecution, he was just 19 years at the relevant time. Admittedly, no overt act has been attributed to the applicant. The test Identification parade was conducted after two and half months of the incident and even long after the arrest of the applicant. Nothing has been recovered from the applicant. He is in jail for little over 11 years.

There is no likelihood of the appeal to be taken up for hearing shortly. Mainly on the ground of long incarceration and no overt act has been attributed to the applicant, we inclined to grant the application. The application is, therefore, allowed.

10. For the reasons recorded separately, we pass following order :

ORDER

a) The Sentence imposed on applicant by the learned Additional Sessions Judge, Solapur vide judgment and order dated 5th February 2020 in Sessions Case No.263 of 2015 shall remain suspended till the final disposal of Criminal Appeal No.1183 of 2022.

b) The applicant be released on his furnishing bail in the sum of Rs.15,000/- with one or more solvent sureties of like amount in connection with Sessions Case No.263 of 2015.

c) Bail before the Trial Court.

d) The applicant shall furnish his residential address and contact details to the Trial Court and inform the Trial Court about any change in the same.

[AJIT B. KADETHANKAR, J.]

[R.G. AVACHAT, J.]