

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

INTERIM APPLICATION NO. 34 OF 2026

IN

CRIMINAL APPEAL NO. 704 OF 2017

Amol Shirang Jadhav.

...Applicant.

Versus

The State of Maharashtra.

...Respondent.

Ms. Payoshi Roy (thr. V.C.), Mr. Rahul P. Sagar and Mr. Ulkesh Gangurde for the Applicant.

Mrs. S. N. Deshmukh, APP for the Respondent-State.

Coram : R. G. Avachat &
Ajit B. Kadethankar, JJ.

Date : February 4, 2026.

P. C. :

1. Heard.
2. This is an application under Section 389 of Code of Criminal Procedure, 1973 seeking suspension of substantive sentence and release of Applicant during the pendency of appeal. Vide judgment and order dated 20th April 2016 passed in Sessions Case No.57 of 2014, the Applicant has been convicted by learned Additional Sessions Judge, Vaduj for the offence punishable under Section 302 of the Indian Penal Code, 1860 and sentenced to suffer life imprisonment.

3. The Applicant has been convicted for committing the murder of his friend. The case is based on circumstantial evidence. The circumstances said to have been established are -

- (a) Extra-judicial confession made to the cousin of deceased,
- (b) Applicant to have been last seen in the company of deceased.
- (c) Recovery of the dead body at the instance of Applicant.
- (d) Motive – The deceased suspected the Applicant to have an extra-marital relation with his wife.

4. Mrs. Deshmukh, learned APP has strong reservations to allow the application even on the ground of Applicant to have been behind the bars close to 11 years. She first took us through the evidence of medical officer. According to her, identify of deceased was established. DNA report was there to that effect. According to her, in view of the evidence of medical officer (PW-10) – Dr. A. R. Jadhav, the death could have occurred within a period of 3 to 7 days (6 to 8 days) prior to he conducted autopsy on the dead body. Then she took us through the evidence of PW-14 to submit that this witness has seen the Applicant and deceased together by little past by 7.30 p.m. on the fateful day. Then, she adverted to the evidence of PW-1, the cousin of deceased. His evidence is to the effect that Applicant confessed to him to the crime and even he took him to a place whereat the dead body of deceased was found. According to learned APP, this witness makes out

two points against the Applicant – one in the nature of extra-judicial confession and the other being the recovery of dead body at his instance.

5. Learned APP also adverted to the evidence of the wife of Applicant who claimed the Applicant to have made her extra-judicial confession. She then adverted to the evidence of wife of deceased who has stated that Applicant had come to her residence and left the house along with deceased.

6. According to learned APP, the chain of circumstantial evidence was complete. The trial Court has come to such a conclusion on appreciation of evidence and this is not a stage at which the entire evidence is to be scrutinized threadbare.

7. According to learned APP, there was no enmity between the Applicant and the deceased. The relative of deceased, therefore, had no grudge against the Applicant.

8. She would further submit that paper book is ready and appeal could be worked out even on the next date.

9. The Applicant is behind the bars for about 11 years (actual imprisonment). The case is based on circumstantial evidence. The deceased had gone missing on 28th June 2014. He did not return home. A missing person's report was lodged by the relative of deceased.

10. It is true that there is some evidence of the widow of deceased

and another witness suggesting the Applicant to have been in the company of deceased on the given day. The fact is that deceased had gone missing on 28th June 2014 whereas the FIR has been lodged 8 days thereafter that too when the dead body of deceased was found. If really these witnesses had seen the Applicant in the company of deceased, they would have at least suspected the Applicant or his name would have figured in the missing person's report stating therein the deceased to have left the house in the company of Applicant.

11. Sofar as the extra judicial confession is concerned, the same is said to be a very weak piece of evidence. It is generally made to a person in confidence. Here, PW-1 to whom the extra-judicial confession was made is no way related to the Applicant. On the contrary, he is cousin of deceased. In this light of the fact, his evidence will have to be re-appreciated while hearing the appeal. According to this witness, after having confessed to the crime, Applicant took him to the place where at he had killed the deceased. The Applicant pointed out the dead body. Then both of them directly went to the police station. PW-1 lodged FIR against the Applicant thereat. This evidence may have some relevance but by no stretch of imagination would be relevant under Section 27 of the Indian Evidence Act, 1872. Evidence of the wife of the Applicant is hit by Section 122 of the Indian Evidence Act, 1872.

12. Based on the aforesaid nature of evidence coupled with the fact that Applicant is behind the bars for close to 11 years (actual imprisonment), we are inclined to grant application. Hence, we pass following order :

- [a] The sentence imposed on Applicant by the learned Additional Sessions Judge, Vaduj vide judgment and order dated 20th April 2016 in Sessions Case No. 57 of 2014 shall remain suspended till the final disposal of Criminal Appeal No. 704 of 2017.
- [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. 57 of 2014.
- [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.

13. Application stands disposed of.

[Ajit B. Kadethankar, J.]

[R. G. Avachat, J.]