

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 6469 OF 2024

Amar Divakar Mishra

... Petitioner

Versus

The State of Maharashtra and Anr.

... Respondents

Mr. Ghanshyam Upadhyay a/w Mr. Vijay Jha i/b Law Juris, for the
Petitioner.

Ms. Supriya Kak, A.P.P., for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
SANDESH D. PATIL, JJ.**

DATE : 24th MARCH, 2026.

P.C. :

1. The matter was heard at some length. Advocate Mr. Ghanshyam Upadhyay pointed out some discrepancies in the investigation. The Petitioner is father of the victim. According to him, the investigation was not proper. He argued on many aspects but the three main aspects which need serious explanation from the current Investigation Agency are as follows:

(i) The inquest panchanama shows that it was conducted
between 5:00 a.m. to 5:45 a.m. at Worckhardt Hospital,

Miraroad whereas the postmortem notes as well as the statement of the Doctor conducting the postmortem shows that the body was already send to and received by Pandit Bhimsen Joshi General Hospital, Mira Bhayander at 3:00 a.m. This is a major discrepancy;

(ii) Secondly, the photograph at page no. 182 shows that the oodhni used in the offence was hanging from a ceiling fan whereas the spot panchanama conducted between 4:00 a.m. to 5:00 a.m. on 24/02/2024 shows that the oodhni was lying on the bed. This is a major evidence in this case;

(iii) Thirdly, an earlier Division Bench had directed the Senior Doctors to give opinion regarding the cause of death. Advocate Mr. Ghanshyam Upadhyay submitted that the Doctor's Report shows that only Assistant Professors had given opinion, no Senior Doctor was involved in giving opinion.

2. Apart from these three major aspects, we also find that the Doctor conducting the postmortem examination has not given a clear finding in the postmortem notes as to whether 'asphyxia' was due to strangulation or due to hanging, she has admitted that she was not experienced enough. All these facts will have to be explained by the Investigating Agency, apart from other aspects.

3. Advocate Mr. Ghanshyam Upadhyay submitted that the postmortem examination was not video-graphed.

4. Learned A.P.P. to explain all these facts by filing affidavit-in-reply on the next occasion with copy to the other side.

5. Stand over to 7th April, 2026.

(SANDESH D. PATIL, J.)

(SARANG V. KOTWAL, J.)