

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

CRIMINAL APPEAL NO. 36 OF 2025

Haroon Nazim Shaikh	]	
Aged 34 years, Occ. - Nil,	]	
R/at. - Presently undergoing imprisonment	]	
for lie and is accordingly in custody of	]	
Respondent - State.	]	
At present Open District Prison Paithan	]	
R/at. P. Y. Lokhande Marg, Butha Nagar,	]	
Chantra Mandir, Chawl No.3, Room No.1,	]	
Govandi, Mumbai - 43.	]	...Appellant
<i>Versus</i>		
The State of Maharashtra,	]	...Respondents
Through Vikroli Police Station	]	
In C. R. No. 187 of 2014.	]	

Mr. Manoj Badgujar, Advocate for the Appellant.

Mrs. Sangeeta D. Shinde, APP for the Respondent-State.

**CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.**

DATED: 8th JUNE 2026.

JUDGMENT (Per :- Manjusha Deshpande, J.)

1. The Appellant challenges the judgment and order of conviction passed under Section 235(1) of the Code of

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Criminal Procedure ("Cr.P.C.", for short), convicting the Appellant/Accused for the offence punishable under Section 302 of the Indian Penal Code ("IPC", for short) sentencing him to undergo imprisonment for life and to pay a fine of Rs.25,000/-, and in default of payment of fine, to undergo rigorous imprisonment for a further period of one year. The Appellant is also convicted for the offence under Sections 4 and 27 of the Arms Act, 1959, and sentenced to undergo rigorous imprisonment for seven years and pay a fine of Rs.1,000/-, both the sentences are directed to be undergone concurrently.

2. The prosecution case, in brief, is that on 8th August 2014, the informant, Sahidunnisa Mumtaj Ahmed Choudhary, lodged a First Information Report at Vikroli Police Station, alleging that her daughter, Afsana, was assaulted by the Accused with a knife. In the said assault, Afsana sustained multiple injuries on her throat, abdomen, and other parts of her body. Despite being rushed to the hospital for medical treatment, she succumbed to the injuries sustained in the incident. She informed that she was residing at Tagore Nagar, Group No. 1, Vikroli (East), along with her

husband, son, and two daughters. Her elder daughter Afsana was educated up to the 7th standard, after which she discontinued her education, and was undergoing training for tailoring and she also did some stitching at home. About one and a half months prior to the incident, the Accused, Haroon Shaikh, along with his parents and two other relatives, approached the informant with a marriage proposal for Afsana. In the presence of the Accused and his family members, the informant asked Afsana about her willingness to accept the marriage proposal. However, she declined the proposal and refused to marry the Accused.

Thereafter, on one occasion in the month of July while Afsana was proceeding towards the public toilet, the Accused attempted to forcibly hold her hand. However, P.W. 3 Kishor, a friend of the informant's son, intervened and warned the Accused not to indulge in such conduct with the deceased.

3. On 8th August 2014, at about 7:00 a.m., Afsana woke up and proceeded towards the public toilet. Simultaneously, the informant also went out to purchase milk and returned home at about 7:15 a.m. After her return, a neighbour, Smt. Dhotre

(P.W.4), along with one Bunty, rushed to her house and informed her that a boy employed at the egg shop had assaulted Afsana with a knife, causing serious injuries to her in abdomen and neck. On hearing the news, the complainant immediately proceeded to the place of incident. The complainant alongwith her husband and son, rushed to the place of incident near the public toilet. Upon reaching the spot, they found Afsana lying in an injured condition, with a serious injury on her neck, from which she was profusely bleeding. The informant's husband and son immediately carried injured Afsana to Laxmi Hospital. However, they were advised to take her to a Government hospital for further medical treatment. Accordingly, she was taken to Rajawadi Hospital, where she was declared dead.

4. On receiving information about the death of Afsana, P.W.1, the informant, lodged the First Information Report against the Accused. Thereafter, P.W.12 PSI Dhavale visited the place of offence as well as Rajawadi Hospital. He prepared the inquest panchanama (Exhibit-30), seized the clothes of the deceased (Exhibit-31) under a seizure panchanama, and recorded the statement of the complainant.

5. The Accused was apprehended while attempting to flee after the commission of the offence. The blood-stained clothes found on his person were seized and sent for chemical analysis. P.W.14, Sudhir Nirgudkar, Senior Police Inspector, forwarded the clothes of the deceased and the Accused for forensic examination. The weapon knife (Article-C) used in the commission of the offence was seized from the possession of the Accused Exhibit-28. The statement of the shop owner P.W. 10 from whom the Accused had allegedly purchased the knife was also recorded during the course of the investigation. Upon completion of the investigation, charge sheet was filed before the competent Court.

6. Charges for the offence punishable under Section 302 of the IPC alongwith Sections 4 and 27 of the Arms Act, 1959 were framed against the Accused. The Accused pleaded not guilty and claimed to be tried.

7. The prosecution examined fourteen witnesses in all in support of its case. P.W.3, Kishor Dharamsingh Kale, and P.W.4, Mrs. Vimal Ramesh Dhotre, are eyewitnesses to the incident. P.W.7, Balkrishna Pandurang Nadavadekar, is the

Police Naik, who apprehended the Accused while running away after committing offence.

P.W.10, Nijamuddin Rahitmulla Shaikh, is the shop owner from whom the Accused had purchased the weapon 'knife'.

P.W. 11 Dr. Abhijit Kondar is the medical officer who has conducted the postmortem. The evidence collected by the prosecution has been proved through various witnesses and after being satisfied about the culpability of the Accused, the learned Additional Sessions Judge, City Civil Court, Greater Mumbai has been pleased to convict the Accused for offences under Section 302 of the IPC as well as Sections 4 and 27 of the Arms Act, 1959. The Appellant has assailed the said judgment and order of conviction in the present Appeal on various grounds.

8. The Learned counsel for the Appellant, Mr. Manoj Badgujar, submits that there is an inordinate delay in lodging the First Information Report. He contends that although the incident occurred on 8th August 2014, in the morning at about 07:15 a.m., the FIR was lodged at about 1:30 p.m., i.e.,

after an unexplained delay of nearly six hours after the incident. The delay in lodging the First Information Report has not been explained by the prosecution. More particularly, in view of the fact that the Accused was immediately apprehended after the incident. It is contended that in such circumstances there is every possibility of false implication of the Accused in the offence.

It is further submitted that the blood group of the deceased, Afsana, has not been established. Therefore, the prosecution has failed to prove that the blood found on the clothes of the Accused belonged to the deceased.

It is submitted that the material witness P.W.2 has stated that he had returned the gifts and belongings of Afsana after 26th June 2014, which establishes that, there was a relationship between the Accused and deceased, which was opposed by the informant and other members of her family. Hence, the Appellant has been falsely implicated by the informant, as she was opposed to his marriage with the deceased.

9. Similarly, P.W.9, Prasad Sakharam Reddij, has also stated that the sister of Mustaq (i.e. Afsana) and Haroon had a love affair. Thus, on the background of a love affair between the deceased and the Accused, there is no possibility that the Accused could have committed the offence.

10. It is submitted that, even in his statement recorded under Section 313 of the Code of Criminal Procedure, the Accused has stated that he has been falsely implicated in the offence, as the love affair between him and the deceased Afsana, was opposed by her family members. The learned counsel, would submit that, from the aforesaid background, it is established that the appellant has been falsely implicated in the offence.

11. Mr. Manoj Badgujar, further submits that the testimony of P.W.3, Kishor Kale, and P.W.4 Smt. Vimal Dhotre are not reliable, there are contradictions and omissions in their depositions, which cast serious doubt on the prosecution case. It is contended that the prosecution has failed to establish the 'motive' for the commission of the offence by the Accused. It is further submitted that the weapon used in the

offence has not been recovered at the instance of the Accused.

12. It is contended that in fact the evidence on record discloses that, the Accused and the deceased were in a relationship therefore, there was no motive for the Accused to commit the alleged offence.

13. It is therefore submitted that, in view of the shaky and unreliable testimony of the two eye witnesses and the absence of any 'motive' for commission of the offence, the Accused has been wrongly convicted for the offence, which, according to him, has not been committed by the Accused.

14. Mr. Badgujar further urged that conviction of the Accused under Sections 4 and 27 of the Arms Act, 1959 is also unwarranted. According to him, in order to attract the provisions of the Arms Act, 1959, the weapon used must be either prohibited weapon or one requiring a licence as per the Rules framed under the Act. He submits that the weapon allegedly used in the offence is smaller in dimension than those prescribed under Rule 4 of the Arms Rules, 1962, which read thus:

“4. Schedule I as referred under Rule II at Clause V states as under -

"Arms other than firearms:

Sharp-edged and deadly weapons, namely: swords (including sword sticks), daggers, bayonets, spears (including; lances and javelins), battle-axes, knives (including kirpans and Khukries) and other such weapons with blades longer than 9" or wider than 2" other than those designed for domestic, agricultural, scientific or industrial purposes, steel baton, "zipo" and other such weapons called 'life preservers', machinery for making arms, other than category II, and any other arms which the Central Government may notify under Section 4".

Since the weapon 'knife' does not fit into the parameters prescribed in the above rule, the, conviction of the Accused under Sections 4 and 27 of the Arms Act, 1959 deserves to be set aside.

15. Per contra, the learned APP Ms. Sangeeta Shinde has strongly opposed the submissions of the learned counsel appearing for the appellant and would submit that, the prosecution has established its case beyond any reasonable doubt. According to her this is an open and shut case, there is no doubt whatsoever about the complicity of the Accused.

16. P.W.3 and P.W.4 are material eye witnesses of the incident. Both witnesses have attributed a specific role to the Accused. The testimonies of both witnesses are consistent and are corroborated by medical evidence. The testimonies of P.W.3 and P.W.4 is further corroborated by P.W.11, Dr. Abhijit Kondar, and P.W.13, Dr. Binit Jha, who have proved the post-mortem report relating to the fatal injuries on the body of the deceased, Afsana, which are consistent with the testimony of P.W.3 and P.W.4.

17. The learned APP further contends that the 'motive' for the commission of the offence has also been established by the prosecution. P.W.1, Sahidunnisa Mumtaj, P.W.8 Suresh Ambhore and P.W.9 Prasad Reddij, have deposed that the Accused was after the deceased and used to chase her whenever she stepped out of the house. P.W.3 has also stated that he had admonished the Accused when once the Accused had attempted to catch hold of the hand of the deceased. It is, therefore, submitted that the Accused, had the 'intention' as well as 'motive' for the commission of the offence, which he committed in the presence of two eye witnesses, i.e. P.W.3 and P.W.4.

18. The Accused was apprehended immediately after the commission of the offence, while he was attempting to flee from the scene of offence along with the weapon. Therefore, there remains no doubt regarding the complicity of the Accused in the commission of the offence. The learned Judge, City Civil and Sessions Court, Mumbai, has rightly convicted the appellant by passing a reasoned and sound judgment after appreciating the evidence on record. Hence, the judgment and order passed by the learned City Civil and Sessions Judge, Mumbai, does not warrant any interference.

19. We have heard the respective counsel for the Appellant as well as the Respondent-State and we have also perused the paper book as well as the record and proceedings. The learned advocate for the appellant at the outset has raised an objection that there is an inordinate delay in filing the FIR. According to him, the offence has taken place in the morning at about 07:15 and immediately thereafter the appellant was apprehended. Whereas, the FIR has been registered at 01:30 in the afternoon. According to us, this gap between the incident and registration of FIR cannot be treated as delay at all for the reason that, after the incident the deceased was

taken to the hospital where she was declared dead. When such incident occurs all of a sudden the family members of the deceased are devastated and lose their sanity. It is not expected that they would immediately approach the police station and register an offence.

When a similar objection about delay in lodging FIR was raised, the Hon'ble Apex Court has very aptly described the mental state of the relatives of a deceased and has held that the relatives of the deceased take some time to regain their senses so as to furnish appropriate information to the police authorities for lodging a report. The relevant observations of the Hon'ble Supreme Court in case of ***Ravinder Kumar and Anr. V. State of Punjab***¹ are reproduced hereinbelow which reads thus:

“14. When there is criticism on the ground that FIR in a case was delayed the court has to look at the reason why there was such a delay. There can be a variety of genuine causes for FIR lodgment to get delayed. Rural people might be ignorant of the need for informing the police of a crime without any lapse of time. This kind of unconversantness is not too uncommon among urban people also. They might not immediately think of going to the police station. Another possibility is due to lack of adequate transport facilities for the informers to reach

1 (2001) 7 SCC 690

the police station. The third, which is a quite common bearing, is that the kith and kin of the deceased might take some appreciable time to regain a certain level of tranquillity of mind or sedativeness of temper for moving to the police station for the purpose of furnishing the requisite information. Yet another cause is, the persons who are supposed to give such information themselves could be so physically impaired that the police had to reach them on getting some nebulous information about the incident.”

In the present case also it must be borne in mind that, it took some time for the informant to regain her sanity, considering the fact that she had lost her young daughter in the incident. Thus, in our view there is no delay as such in lodging the FIR, and the objection raised by the appellant does not deserve any consideration.

20. As stated hereinabove, the Accused and the deceased knew each other well prior to the incident. P.W.1, P.W.3, P.W.4, P.W.8, and P.W.9 were also acquainted with both the Accused and the deceased. It has come on record that there was some relationship between the Accused and the deceased; however, when the Accused approached the parents of the deceased with a marriage proposal, she refused to marry him. After the said incident, the Accused

attempted to misbehave with the deceased, during which P.W.3 intervened and admonished him.

21. P.W.1 and P.W. 2 have also categorically stated that, the Accused, along with his parents, had approached their house with a marriage proposal, which was rejected by Afsana. She has further deposed regarding the incident stated by P.W.3, wherein the Accused had attempted to catch hold of the hand of the deceased, during the month of Ramzan in 2014. As such the prosecution has established the 'motive' for the commission of the offence. After the rejection of the marriage proposal by the deceased, the efforts of the Accused to persuade her had failed. Thereafter, the Accused purchased a knife from the shop of P.W.10, who identified the Accused as the same person who had purchased the said knife from his shop. P.W. 10 also identified the 'knife', Article-C, as the same knife sold by him to the Accused. He has categorically stated that he had sold the knife about four to five days prior to Ramzan Eid. Thus, the Accused purchased the knife with the 'intention', and in preparation to commit the offence. Hence, it is not a case of an offence committed in the spur of a moment or on sudden and gave provocation. The Accused has

committed a pre-planned murder of the deceased with proper preparation, which establishes that he had the 'motive' to commit the offence.

22. The incident has occurred in front of the public toilet which has been witnessed by P.W.3 and P.W.4. P.W.4 has also categorically stated that, she saw the Accused assaulting the deceased with a knife. On seeing this, when she immediately rushed forward to rescue the deceased, and caught hold of the Accused. The Accused gave her a jerk and assaulted the deceased on her abdomen with a big/large knife. The injuries mentioned in the post-mortem report proved by P.W.11 are consistent with the testimony of P.W.4. P.W.3 as well as P.W.4 are independent witnesses who are not related to the deceased. Thus, their testimony is completely reliable and cannot be doubted.

23. Similarly, it also needs to be appreciated that, it is not a case of single blow given by the Accused, but multiple brutal knife blows are inflicted on the vital parts of the body of the deceased. The number and nature of injuries also support the inference of a premeditated and pre-planned offence. The

number and nature of injuries clearly indicate the intention to cause death of the deceased.

24. The appellant had inflicted various knife blows on the deceased due to which she sustained nine external injuries, that are found on her body during the postmortem mentioned in column no. 17 of the postmortem report. Immediately after the incident, the Accused was apprehended by P.W.7, a Police Naik, while the Accused was being chased by a rickshaw driver and some other people, while attempting to flee. After being apprehended, he was taken to Paresh Parker Chowki.

P.W. 6 Rajesh Saha the panch witness has proved the seizure of the knife from the possession of the Accused. P.W.6, has stated that the Accused was taken to the police station he had blood stained clothes on his person and, he was in possession of a red coloured bag containing a knife of about three inches in width, along with a cloth. The articles were seized by the police authorities, in his presence and his signature was obtained on the seizure memo. The knife,

Article-C, was identified by him. There was no challenge to it the cross – examination.

Thus, the prosecution has proved the recovery of the knife from the possession of the Accused through P.W.6 and P.W.7. Nothing material could be elicited from this witness to discredit his testimony. This clearly corroborates testimony of PW. 3 and P.W. 4 and points towards the complicity of the Appellant in the offence.

25. The clothes of the deceased as well as those of the Accused were sent to the Chemical Analyser. The CA report at Exhibit 45 establishes that, the blood stains on the jeans/pant of the Accused, worn by him at the time of the offence, matched with the blood group of the deceased. Similarly, the knife, Exhibit-28, was found to be stained with blood of group 'O', which belonged to the deceased. Thus, the prosecution has established that, the blood found on the clothes of the Accused, as well as the blood stains on the knife, Exhibit-28, belonged to the deceased. Hence, there is no substance in the contention of the Appellant that he has been falsely implicated in the offence.

This being a case based on direct evidence, no corroboration, as such, is necessary. Although there is corroborative evidence in the present case, the settled position of law is that even the testimony of a single eyewitness, if found credible and trustworthy, can be relied upon and is sufficient to sustain a conviction, provided it is of sterling quality. There is no rule of law requiring the testimony of a solitary eyewitness to be corroborated; corroboration is sought only as a matter of prudence. In the present case, there are two eyewitnesses to the incident. Their testimonies are wholly reliable and could not be shaken during cross-examination.

The Appellant has been convicted for the offence of murder under Section 302 of the IPC. While doing so, the learned Judge, City Civil Court, Greater Mumbai, has rightly considered whether the offence would fall under Section 300 of the IPC, its sub-clauses, or under Section 299 of the IPC.

26. After careful consideration of evidence led by the prosecution in the light of landmark judgment in *Virsa Singh v. State of Punjab*², which lays down the four-fold test for

² AIR 1958 SC 465

determining whether an offence falls within Section 300 of the IPC, the learned Judge has come to the conclusion that the prosecution has clearly established that the offence falls within the ambit of Section 300 of IPC.

27. The learned Judge has come to the conclusion that the prosecution has clearly established that the Accused had the intention to cause death and that the case does not fall within any of the exceptions under Section 300 of the IPC. We are in agreement with the view taken by the learned Judge, City Civil and Sessions Court, Greater Mumbai. In our view, the prosecution has clearly established both the 'motive' and 'intention for causing the death of the deceased'. Similarly, the eyewitnesses have unequivocally established that it was none other than the Accused who was present at the scene of offence and who inflicted the knife blows on the deceased in their presence. The knife used in the offence was immediately seized from the possession of the Accused after he was apprehended. The Chemical Analyser's report establishes that the blood stains on the clothes of the Accused, which were seized and sent for chemical analysis, matched with the blood of the deceased. Thus, there is no

doubt regarding the complicity of the Accused in the commission of the offence.

20. Thus, we find no case for interference made out by the Appellant. Accordingly, the Appeal stands dismissed.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)