

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

CRIMINAL APPEAL NO.1050 OF 2023

Navnath Ramchandra Pansare
Versus
The State of Maharashtra

.....Appellant

.....Respondent

....
WITH
INTERIM APPLICATION NO.2175 OF 2025
IN
CRIMINAL APPEAL NO.1050 OF 2023

Ms. Vrushali Maindad, Advocate for the Appellant.
Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

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

DATE : 19th JANUARY, 2026

JUDGMENT : [PER SARANG V. KOTWAL, J.]

1. The Appellant has challenged the judgment and order dated 1.1.2022 passed by the learned Additional Sessions Judge, Pune in Sessions Case No.451/2015. The Appellant was convicted for commission of the offences punishable under Section 452 and 302 of IPC. The Appellant was sentenced to suffer RI for three years and to pay a fine of Rs.2,000/- and in default to suffer RI for three months for commission of the offence punishable under Section 452 of IPC. He was sentenced to suffer RI for life and to pay a fine of Rs.5,000/- and in default to suffer RI for three months

for the offence punishable under Section 302 of IPC. He was also charged with commission of the offences punishable under Sections 376 & 380 of IPC.. However, he was acquitted from these charges. He was in custody from 28.2.2015 till his conviction. He was granted set-off subject to the provisions of Section 433-A of Cr.P.C. The substantive sentences were directed to run concurrently.

2. The prosecution case is that the Appellant was residing in the same village as the deceased Seetabai. According to the prosecution case, on 27.2.2015, the Appellant entered the house of the deceased at about 3.30 p.m. and committed her murder by giving blows of knife on her neck and other parts. One of the villagers Dilip Rathwade had seen the Appellant leaving the house of the deceased hurriedly at about 3.30 p.m.. He heard shouts of some ladies at around 4.00 p.m.. One of the ladies approached his house and informed that the deceased was murdered. They asked the Appellant to make phone call to the police patil. Accordingly, the Appellant made a phone call to the police patil and informed him about the murder. The police patil did not trust him. He spoke with PW-2 Dilip Rathwade on the same phone call. Dilip also informed the police patil about the murder of the deceased. The

police patil returned to the village, saw the scene of the incident and informed the police. Accordingly, C.R. No.16/2015 was registered at Bhore police station at 6.15 p.m. on 27.2.2015. The Appellant was arrested. The investigation was carried out. The statements of the witnesses were recorded. The spot panchnama was conducted. It is the case of the prosecution that the murder weapon i.e. a knife was recovered at the instance of the Appellant. His clothes were recovered from his house. The articles were sent for chemical analysis. At the end of investigation, the charge-sheet was filed and the case was committed to the Court of Session.

3. In support of its case, the prosecution examined eleven witnesses including the police patil, the aforementioned Dilip Rathwade, daughter of the deceased, the panchas, the medical officers and the investigating officers. The defence of the Appellant was of total denial. The learned Judge relied on the theory of the Appellant having been last seen in the house of the deceased shortly before her death, recovery of the weapon and the circumstance that the Appellant did not explain this conduct. Based on these circumstances, the learned Judge convicted and sentenced the Appellant, as mentioned above. Learned Judge did

not find any evidence in support of the allegations of commission of offence of rape and, therefore, the Appellant was acquitted from those charges.

4. Heard Ms. Vrushali Maindad, learned counsel for the Appellant and Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State.

5. PW-1 Police Patil Anil Dombé was the first informant. He deposed that he was the police patil of village Dere. On 27.2.2015, he had gone to Bhór for marketing. At about 4.00 p.m. he received a phone call from the Appellant from village Bhandroli. The Appellant informed him about the murder of the deceased Seetabai, who was wife of one Ankush Rathawade. PW-1 did not believe him. He asked the Appellant to hand over the phone to a neighbour. The Appellant gave the phone to Dilip Rathwade (PW-2), who confirmed the information. PW-1 then went to village Bhandroli on a motorcycle and saw the dead body of the deceased Seetabai. There were injuries on her neck. PW-1 then went to Bhór police station and lodged his FIR, which is produced on record at Exhibit-14. He accompanied the police when the spot panchnama and the inquest panchnama were conducted. He deposed that he

had seen broken mangalsutra and broken bangles at the spot. He had also seen some other beads. He identified the articles produced in the Court.

In the cross-examination, he accepted that he had not seen who had assaulted the deceased Seetabai. PW-1 further deposed that Bhor market was about 47 kms away from the spot of incident. He had received a phone call from the Appellant at 4.00 p.m.. He had lodged his report in his capacity as a police patil of the village against an unknown person.

The FIR produced on record at Exhibit-14 supports his deposition. Significantly, there is a reference to PW-2 Dilip Rathwade and there is a specific mention that the FIR was being lodged against an unknown person.

6. PW-2 Dilip Rathwade is an important witness in this case. He was the cousin of the husband of the deceased. The cousin's name was Ankush. According to him, Ankush used to visit their village frequently. He was running a sugarcane juice stall and was also doing agricultural work. Ankush's house was situated in a hilly area. The Appellant's house was near Ankush's house. On 27.2.2015 at 11.00 a.m., PW-2 was working in his field. At about

3.00 p.m. he returned to his agricultural land. At about 3.30 p.m., he looked towards the house of the deceased. He saw that the Appellant was hurriedly leaving the house of the deceased through the Eastern side door. According to PW-2, he had shown his wife Sunita that the Appellant was running away. At that time, the Appellant was wearing a red coloured T-shirt and black coloured bermuda pant. At about 4.00 p.m. they heard shouts. They reached the house of the deceased and saw that Seetabai was lying in a pool of blood. The household articles were scattered in the room. He noticed two marks on the neck. Three ladies i.e. Parubai, Lata and Rohini were present there. They were the sisters-in-law of the deceased. Out of them, Parubai went outside the house to make a phone call. The Appellant connected that call to the police patil. PW-2 further deposed that PW-1 spoke with PW-2 and confirmed the information given by the Appellant. The police patil came to the spot and then went to the police station. The police came to the spot. All of them took the dead body to Bhor. The police recorded his statement on 1.3.2015. He identified the Appellant.

In the cross-examination, he submitted that his

agricultural field is at some distance from his house. In between his field and the house of the deceased, there were agricultural fields of others. He was cross-examined about the location of the house of the deceased. He denied the suggestion that he had not seen the Appellant leaving house of the deceased. He admitted that on the date of incident he had not given any information to the police. On 1.3.2015, the police called him to the police station for recording his statement. The police had arrested the Appellant on 27.2.2015 itself. He then added that his statement was recorded by the police on 27.2.2015. Significantly, he admitted that they knew that the police had arrested the Appellant and, therefore, he had stated the Appellant's name to the police. This is an important admission. He again stated that the police did not record his statement on 27.2.2015 but they had only enquired about his name and address.

7. PW-3 Supriya Rathwade was the daughter of the deceased. At the time of the incident, she was studying in the 7th standard. She deposed that her father was residing at Pune. She used to attend Ashram School, Kurunji. On the date of incident, she had gone to her school and her mother was alone in the house. She returned home from school at about 5.00 p.m. She saw that

her mother was lying near the bathroom. She was dead. There was injury on her neck. Her *mangalsutra* was broken. The black and yellow coloured beads were scattered. Her bracelet was also broken. She stated that the bracelet beads were not of her mother and they belonged to the Appellant. The defence objected to this answer. She further added that whenever the Appellant used to visit their house she had seen the beads in his bracelet. She suspected that the Appellant might have committed the murder. The police recorded her statement on 27.2.2015.

In the cross-examination, she stated that PW-2's agricultural field is at a distance of 1 km from her house. Usually she returned home by a S.T. bus around 7.00 p.m.. On that day, her school got over at 3.30 p.m.. She saw Latabai, Rohini and Parubai in her house. She stated that her statement was recorded on 27.2.2015 and at that time the police had also recorded the statement of PW-2 in her presence. She admitted that the black beads seen in the house were easily available in the market. They could be used in *mani mangalsutra*.

8. PW-4 Dr. Bhangare had examined the Appellant on 28.2.2015 and had observed abrasions over right elbow, left knee

and right knee of the Appellant. According to him, those injuries were caused within 48 hours of his examination. The size of those abrasions were not big.

In the cross-examination, he accepted the suggestion that those injuries could be caused because of fall from a cycle or while playing outdoor sports. The injury certificate is produced on record at Exhibit-22.

9. PW-5 Dattatraya Rathawade was a pancha for spot panchnama, which is produced on record at Exhibit-27. He described the articles at the spot i.e. broken bangles, black beads, and broken *mangalsutra*.

In the cross-examination, he admitted that the husband of the deceased i.e. Ankush Rathawade was his distant relative and that the broken black beads and pieces of bangles were easily available in the market. The spot panchnama was conducted between 8.30 p.m. to 9.30 p.m.. The police had seized the blood stained earth, normal earth, beads, broken articles etc..

10. PW-6 Sanjay Rathawade was a pancha for recovery of weapon at the instance of the Appellant on 5.3.2015 between 2.45 p.m. to 5.00 p.m.. Those panchnamas are produced on record at

Exhibits-29 and 29A. He deposed that the Appellant had shown willingness to show the spot in the bushes where he had thrown the knife. The Appellant led the police and the panchas to one naala and brought one knife from the bushes. The blade and the handle were separate. He identified the knife separated from handle.

In the cross-examination, he admitted that Ankush Rathawade was also his relative. There was no fencing around the spot from where the Appellant brought the knife. The panchnama shows that the Appellant had taken out the knife from the bushes and the grass. The panchnama does not mention that it was concealed.

11. PW-7 Bhau Malekar was another pancha. On 28.2.2015 in his presence, the police seized one T-shirt, one bermuda and one thread from the house of the Appellant in the presence of the Appellant himself. It was not a recovery under Section 27 of the Evidence Act pursuant to the statement given by the Appellant. The panchnama is produced on record at Exhibit-33. He identified the panchnama. Because of passage of time he was unable to identify those clothes. The panchnama shows

recovery of a T-shirt, a bermuda pant, an underwear and one roll of thread.

12. PW-8 Sandeep Mandhare was a pancha for seizure of clothes of the deceased. The panchnama was carried out on 28.2.2015, which is produced on record at Exhibit-36.

13. PW-10 Dr. Jayshree Manur had conducted the postmortem examination. The deceased had suffered abrasions on the right knee, left knee, left leg, both the elbows, right cheek, right side of the chin, near eye brow and forehead. Besides these injuries, there was a major injury described as oval lacerated perforating wound on anterior surface of neck in suprasternal region 3 x 2 cm upto spine involving left lateral vital I.J. neck vessels within 24 hours. There was one CLW on the right side of neck and there was laceration on left iliac crest. The cause of death was mentioned as “due to hemorrhagic shock leading to cardio respiratory arrest due to perforating wound from neck towards the left lung causing left haemothorax.

14. PW-9 PI Hambirrao Chougule was attached to Bhore police station. He had arrested the Appellant. He had found injuries on his person. PW-9 took the Appellant for medical examination.

The arrest panchnama at Exhibit-39 shows that there was a bracelet in the form of beads held together by a thread. It is mentioned in the panchnama that while taking out the bracelet the thread broke and the beads became free. This indicates that the bracelet was intact at the time of his arrest. Only when it was taken out after his arrest, it broke.

He recovered a knife at the instance of the Appellant. He added that on the first occasion i.e. on 28.2.2015 the Appellant had led them to a spot near a dam purportedly to show the place where he had thrown the ornaments and the knife. However, nothing was found at that time. There was deep water in the dam but they recovered some bangles and white anklet on that occasion. That panchnama is produced on record at Exhibit 40-A. However, there is no connecting piece of evidence connecting those articles with the deceased. Therefore, recovery of these ornaments remained unconnected with the offence.

The Medical Officer had expressed a possibility that perhaps rape was committed on the deceased. Therefore, the Appellant was subjected for medical examination for the potency test. PW-9 further deposed that on 5.3.2015 the Appellant again

showed willingness to show the place where he had concealed the weapon. This time the weapon was recovered from the bushes as mentioned earlier. At the conclusion of the investigation he filed the charge-sheet.

In the cross-examination, he admitted that the deceased and the witnesses were relatives but he was not aware of their exact relationship.

15. PW-11 PSI Vitthal Pawar had lodged the FIR. He had visited the spot of incident and had conducted the spot panchnama. He had supervised the inquest panchnama.

In the cross-examination, he admitted that he had sought CDR of the Appellant, one Laxman Pansare and the deceased. He denied that the CDR showed conversation between the deceased and one Laxman Pansare. The record shows that the clothes of said Laxman were also sent for chemical analysis but the charge-sheet was not filed against him.

PW-11 denied the suggestion that the Appellant is falsely implicated. He added voluntarily that the daughter of the deceased had seen the Appellant entering their house. This particular statement is not made by the daughter herself. It is not

even the prosecution case.

. This, in short, is the evidence led by the prosecution.

16. Learned counsel for the Appellant submitted that the evidence of the prosecution witnesses is not believable. They were all relatives of Ankush i.e. husband of the deceased. PW-2 is a wholly unreliable witness. He had not seen the blood stains on the clothes of the Appellant. Shortly after the incident, PW-2 and the Appellant were together when a phone call was made to the police party. The three important witnesses, namely, Parubai, Lata and Rohini were not examined. They were the first persons who had reached the spot after the incident and had seen the dead body. They were present at the spot when PW-3 the daughter had reached the spot. PW-2 had admitted that he had named the Appellant only because the police had arrested him. The beads found at the spot were easily available. The recovery of weapon after ten days from the incident from an open place which was accessible to all does not inspire confidence. It is a doubtful circumstance. The panchnama cannot be relied upon because the panchas were also relatives of the deceased.

17. Learned APP, on the other hand, relied on the evidence

of recovery of knife which had blood of 'A-Group'. The same blood group was found on the clothes of the deceased. Therefore, she submitted that recovery of this weapon connects the Appellant to the crime. Apart from that, she relied heavily on the evidence of PW-2 who had seen the Appellant leaving the house of the deceased at 3.30 p.m. which was shortly before her dead body was discovered meaning thereby that it was none other than the Appellant who had committed the murder. She also relied on the articles i.e. beads found at the spot. According to the prosecution case, those beads were from the bracelet of the Appellant. The thread running through the beads was similar to the one found in his house. All these circumstances connecting together show that the Appellant was the only person who could have committed the murder. Thus she submitted that the prosecution has proved its case beyond reasonable doubt.

18. We have considered these submissions. The only main important witness who needs serious consideration is PW-2. The prosecution case relies heavily on his evidence. He deposed that he had seen the Appellant rushing out of the house of the deceased at 3.30 p.m. PW-2 had shown his wife that the Appellant was running

away. PW-2's wife is not examined. The evidence shows that he was present in his agricultural field when he purportedly saw the Appellant running away. PW-3 had stated that the field of PW-2 is at a distance of 1 km from the house of the deceased. Therefore, it is difficult to believe that PW-2 could have seen the Appellant running away from the spot. The conduct of PW-2 is also unnatural. If he had seen the Appellant running away from the house of the deceased at 3.30 p.m. and if within a short time the dead body was discovered from that house, then he should have informed this fact to everyone including PW-1 and should have apprehended the Appellant. In fact, one of the ladies, namely, Parubai, approached the Appellant to make a phone call at that time. PW-2 was standing next to the Appellant. Both of them had a conversation. Even at that time PW-2 did not inform the police patil about the Appellant running away from the house of the deceased. The FIR also mentions that it was lodged against an unknown person. Thus at no point of time PW-2 had named the Appellant or described the fact that the Appellant was running away from the house of the deceased. It is important to note that PW-2 was the cousin of Ankush Rathawade. Though he was a near relative of the

deceased, his conduct of not naming the Appellant immediately shows that he is not a truthful witness. He had also not given clear answers as to on which date his statement was recorded but it appears from the record that it was recorded on 1.3.2015. In this connection, his admission assumes importance when he admitted that he had named the Appellant only because the police had already arrested him. The investigating officer has not referred to this evidence. Instead, according to the investigating officer the Appellant was the culprit because the daughter of the deceased had seen the Appellant entering the house of the deceased. This is not the prosecution case at all. The theory that the Appellant had entered the house of the deceased shortly before the incident is not acceptable. The prosecution has miserably failed to prove this fact.

19. The next incriminating circumstance is about finding of the beads at the spot. If it was the case of the prosecution that the beads found at the spot were from the bracelet of the Appellant, the arrest panchnama belies that fact. The arrest panchnama shows that the bracelet was broken only while taking it out at the time of his arrest.

20. The other circumstance is of finding of bermuda shorts

and the T-shirt in the house of the deceased. Very significantly, those two articles do not show presence of blood as per C.A. report. If the attack was brutal causing such heavy bleeding, the clothes worn at the time of the incident by the Appellant should have shown presence of blood. But absence of blood on his clothes is a strong circumstance in favour of the Appellant. Though there is C.A. Report showing that the earth attached to his clothes was similar in texture to the earth found at the spot, it is difficult to believe that the blood stains would not be present on those clothes. In any case that recovery is not made at the instance of the Appellant. Therefore, finding of those clothes is not a circumstance which can be relied on by the prosecution in support of its case.

21. The next circumstance is about recovery of the weapon. Though the C.A. report shows that the blade of the recovered weapon showed presence of blood of 'A-Group' which was also the blood group of the deceased, the recovery itself is doubtful. The evidence shows that it was effected from an open space which was accessible to all. The cross-examination of the panchas shows that there was no fencing around the spot from where the weapon was recovered. It was taken out from the grass. It is nowhere mentioned

that it was concealed under some article and or it was not visible. Hence, this recovery also is not an incriminating circumstance against the Appellant.

22. The prosecution ought to have examined the three ladies who were present near the dead body. They had seen the dead body at the first point of time. Their non-examination is a serious lacuna.

23. The evidence of the daughter (PW-3) is not of much assistance to the prosecution. She had reached the spot subsequently. The prosecution has not established the motive. The recovered articles were not connected with the deceased.

24. Thus, it can be seen that every single circumstance brought on record by the prosecution is doubtful and they have not proved their case beyond reasonable doubt. In this view of the matter, the impugned judgment and order is required to be set aside. Hence, the following order :

:: O R D E R ::

- i. The judgment and order dated 1.1.2022 passed by the learned Additional Sessions Judge, Pune in Sessions Case No.451/2015 convicting and sentencing the Appellant for

commission of the offence punishable under Sections 302 and 452 of IPC is set aside.

- ii. The Appellant is acquitted of all the charges. Fine amount, if paid, be returned to him.
- iii. The Appellant be released forthwith if not required in any other case.
- iv. The Appellant shall execute a bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand Only) under Section 481 of the Bharatiya Nagarik Suraksha Sanhita, for his appearance in case an Appeal is preferred. He shall execute such bond before he is released from jail.
- v. The Appeal is disposed of accordingly. With disposal of the Appeal, the connected application is also disposed of.

(SANDESH D. PATIL, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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