IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4929 OF 2025
IN
CRIMINAL APPEAL No. 54 of 2024

ARUN SUKLAL NAMDAS
VERSUS
THE STATE OF MAHARASHTRA

....
Advocate for the applicant : Mr. R. R. Raghuwanshi
A.P.P. for Respondent/State : Mr. P. S. Patil
...

CORAM : SANDIPKUMAR C. MORE AND
VAISHALI PATIL-JADHAV, JJ.

RESERVED ON : OCTOBER 15, 2026
PRONOUNCED ON : OCTOBER 16, 2026

ORDER (PER SANDIPKUMAR C. MORE, J.):-

1. Heard rival submissions.

2. By way of this application, the applicant who is the original accused in Sessions Case No. 54 of 2022, is seeking suspension of his substantive sentence of life imprisonment awarded under the aforesaid Sessions Case vide judgment dated 12.12.2023, passed by the learned Additional Sessions Judge, Nandurbar during the pendency of this appeal and also his release on bail.

3. As per the prosecution story, the accused Arun Namdas is the husband of the deceased Rekha and they are blessed with one daughter by name Sonali. The informant Ashok Devram Khandekar is the husband of sister of accused.

4. As per the report of the informant, on the day of incident i.e. on 22.06.2022 around 10.30 to 11.00 a.m. the informant and his wife deceased Surekha were selling vegetables in Bethel Colony. At that time accused came to them and informed that, quarrel took place between himself and deceased Rekha, wherein he assaulted and killed her and then left for work. After reaching to the house of accused, they made inquiry with landlady Lata Bagale and thereafter went upstairs to ascertain the situation. The house of accused which was chained from the outside, when opened, then it was noticed that deceased Rekha was lying in kitchen in the pool of blood. When she was taken to Civil Hospital, Nandurbar, the doctor declared her as brought dead on arrival.

Accordingly, crime for the offence punishable under Section 302 of the IPC was registered against the applicant. After investigation, charge sheet was filed. The learned Trial Judge, after conducting trial, convicted the applicant for the offence punishable under Section 302 of the Indian Penal Code

and sentenced him to suffer rigorous imprisonment for life and to pay fine of Rs. 5,000/- with default clause.

5. The learned counsel for the applicant submits that, there is no eye witness to the incident and the case is based on circumstantial evidence. According to him, the accused had left his house at 9.00 a.m., but the mother of the deceased has deposed before the Court that, deceased had called her at 9.30 a.m., which falsifies the entire story of the prosecution. Further, he pointed out that the death of Rekha might have taken place before 12 hours suggesting that it might be at 5.30 a.m. As such, he prayed for release of the applicant on bail during the pendency of the appeal.

6. As against this, the learned A.P.P. strongly supported the conviction of applicant/accused and submitted that, the accused and the deceased only were in the house at the time of alleged incident, and therefore, accused was supposed to give plausible explanation under Section 106 of the Indian Evidence Act in respect of the death of his wife. He pointed out that, the accused had taken plea of alibi that he was already at Amalner for two days of the incident, but could not establish the same. According to the learned A.P.P., the independent witness i.e. Latabai Ashok Bagale (P.W.6) has

clearly stated that on the day of incident, she had seen the accused leaving the house at 9.00 a.m. Moreover, death of Rekha was admittedly homicidal and recovery of the weapon used in the crime is also there. Thus, he prayed for rejection of the application.

7. Admittedly, the death of Rekha was homicidal. Moreover, though the informant refused to support the case of the prosecution to the extent of extra judicial confession made by the accused before him about killing Rekha, but he admitted that accused had been to them on the day of incident after leaving his house. Moreover, the child witness i.e. daughter of the accused has also deposed before the Court that the accused had assaulted her mother on the earlier day and then stated that "*after she went to school, he would see her mother*". It is to be noted that though mother of the deceased stated that deceased had called her at 9.30 a.m. i.e. after the accused left the house, but there is no "CDR" on record to establish the said fact.

8. Admittedly, the incident had taken place within the four-walls of the house of the accused, and therefore, as per Section 106 of the Indian Evidence Act, accused was supposed to give plausible explanation about the death of Rekha. On the

contrary, the accused took defence of alibi, but it was also found highly improbable as aforesaid. There were five injuries were found on the person of deceased Rekha, out of which three were incised wounds. Thus, considering all these facts, there appears *prima facie* material against the applicant/ accused. As such, we are not inclined to grant any relief to the applicant/ accused at this juncture. Accordingly, the application stands rejected.

(VAISHALI PATIL-JADHAV)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

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