

(2026) 08 BOM CK 3488

In the Bombay High Court

Case No : CRIMINAL APPEAL NO. 1223 OF 2022 WITH INTERIM APPLICATION
NO.2376 OF 2026 IN CRIMINAL APPEAL NO. 1223 OF 2022

Vasant Punjaram Sonawane

APPELLANT

Vs

The State Of Maharashtra

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Indian Penal Code, 1960 — Section 302
Indian Evidence Act, 1872 — Section 106

Citation : (2026) 08 BOM CK 3488

Hon'ble Judges : Ashish S. Chavan, J;Sarang V. Kotwal, J

Bench : Division Bench

Advocate : Mr. Rupesh Bobade, Ms. Supriya Kak

Final Decision : Dismissed

Judgement

JUDGMENT (Per : Sarang V. Kotwal, J)

1. The Appellant has challenged the Judgment and Order dated 25thOctober, 2016, passed by the learned Ad-hoc Additional Sessions Judge-1, at Malegaon, District Nashik, in Sessions Case No.49 of 2005.
2. By the impugned Judgment and order, the Appellant was convicted for commission of offence punishable under Section 302 of the Indian Penal Code, 1960 (hereinafter referred as "IPC") and was sentenced to suffer imprisonment for life and to pay a fine of Rs.10,000/-, in default of payment of fine, to suffer rigorous imprisonment for three months.
3. Heard Mr. Rupesh Bobade, learned counsel for the Appellant, and Ms. Supriya Kak, learned APP for the State/Respondent.
4. The prosecution case is that the deceased, Rekhabai, was married to the present Appellant. The Appellant was suspecting her character. He was suspecting that she was having an affair with one Ravan Patil. The deceased and her husband used to reside in a tin shed in the field of one Bajirao Deore. The

incident took place on 3rdFebruary, 2005. A day prior to the incident, the deceased had stayed with her parents. On 3rdFebruary, 2005, in the morning, when the deceased, Rekhabai, and two other ladies were proceeding towards the agricultural field for their labour work, they met the Appellant on the way. He called the deceased to their house. The other two ladies proceeded to their work. They returned shortly and informed Rekhabai's father,- Ramdas, that the deceased, Rekhabai, had gone with the Appellant. Since Ramdas was aware of the strained relationship between the Appellant and Rekhabai, he got worried and rushed to the house of the Appellant. When he reached there, he saw Rekhabai lying in a pool of blood with an injury on her neck. He saw one blood-stained axe lying near the dead body. The Appellant was not seen anywhere. He informed the other people in the village about the incident. The Police Patil of village Virgaon was informed. The Police Patil informed the Satana police station.

The offence was registered vide CR No.11 of 2005. The investigation started. The Appellant was arrested on 10thFebruary, 2005. The blood stained clothes were recovered at his instance. The blood-stained pant was recovered hanging from a banyan tree. At the conclusion of the investigation, the chargesheet was filed, and the case was committed to the Court of Session.

5. During trial, the prosecution examined 11 witnesses, including the first informant; the parents of the deceased, Rekhabai, the witnesses who had last seen the deceased and the Appellant together, the medical officer, the panch witnesses, and the investigating officer.

6. PW-1 Ashok Pawar was the Police Patil. He deposed that on 3rdFebruary, 2005, at about 9.30 a.m., he was in his field. At that time, one Sajan Deore came to him and told him that Rekhabai was murdered in the field of Bajirao Deore. PW1 alongwith Babu Waman Gangurde, Trambak Deore, and Ashok Deore, went to Bajirao Deore's field. He saw the dead body of Rekhabai lying in the tin shed in the field of Bajirao Deore. One blood-stained axe was lying near the deceased Rekhabai. Rekhabai had sustained an injury on her neck. PW-1 informed this fact to the Police Station. The FIR was lodged. It was produced on record at Exhibit 31. PW-1 identified the FIR and the axe produced in the Court.

In the cross-examination, he deposed that the parents and brothers of the deceased Rekhabai used to reside at Virgaon. Bajirao Deore had two brothers. Sajan Deore was Bajirao Deore's brother. The father of the deceased was not with him at the spot of the incident.

The FIR was registered at 12.05 p.m. on 3rdFebruary, 2005. The contents of the FIR sufficiently corroborate his deposition.

7. PW-2 Sitaram Deore was a panch witness for inquest panchanama.

8. PW-5 Dattu Deore was a pancha for the spot panchanama. This spot panchanam is not in dispute. The spot of the incident was a tin shed in the field of Bajirao Deore. The spot panchanama was produced on record at Exhibit 42. At

the time of conducting the spot panchanama, a blood-stained axe was seized from the spot.

9. PW-3 Sanjay Ahire was a panch witness. In his presence, the clothes of the Appellant were seized. The panchanama was produced on record at Exhibit 36. PW-3 deposed that the Police had called him to Satana Police Station on 10th February, 2005. The clothes of the Appellant i.e. one brown shirt, full pant, and one sando banian, were lying at the police station.

In the cross-examination, he admitted that the clothes were lying on the table. He did not know from where the clothes were brought.

10. PW-4 Trambak Raundal was another panch in whose presence the pant was recovered at the instance of the present Appellant on 14th February, 2005. He deposed that the Appellant led the panchas and the Police to village – Dang Saudane. The panchanama was produced on record at Exhibit 38. It shows that the pant had been thrown on the banyan tree, from where it was recovered.

In the cross-examination, this witness admitted that the clothes were not seized in his presence.

11. PW-7 Madhav Rathod was a medical practitioner who had conducted the postmortem examination on the dead body of Rekhabai. He found the following injuries :-

Contused lacerated wound 7x3 c.m. over

lateral aspect of right side of neck

ii) Fracture of cervical vertebrae C1 and C2.

iii) Contused lacerated wound 5x3 c.m. present at lateral to thyroid cartilage right side.

iv) Contused lacerated wound 3x3 cm. just above

thyroid cartilage.

He deposed that the cause of death was due to 'hypovolumic shock due to rupture of right carotid artery'. The memorandum of postmortem was produced on record at Exhibit 45. He deposed that the injuries were possible by the axe article "F" produced in the Court.

12. PW-6 Mangalbai Borase, is an important witness. She was the mother of the deceased. She deposed that, after the marriage with the Appellant, Rekhabai went to village Bhadane for cohabitation. The Appellant used to consume alcohol, and used to assault and abuse Rekhabai. He suspected her character. He had an impression that Rekhabai was having an affair with Ravan Patil. As the Appellant was harassing her, the deceased came to her parents' house. She stayed there overnight. This was one day prior to the incident. On the day of the incident, Rekhabai alongwith Narmada and Rekha Pawar (PW-9), went towards the field of

one Bajirao Deore for doing labour work i.e. for washing clothes and utensils. The Appellant was working in the field of Bajirao Deore on yearly basis. He called the deceased Rekhabai. After sometime, Narmada and Rekha came to PW-6 and told her that the Appellant had called the deceased Rekhabai. They enquired whether Rekhabai had returned home. PW-6's husband Ramdas went to the field of Bajirao Deore. He returned after some time and told her that the Appellant had murdered Rekha. PW-6 identified the Appellant in the Court.

In the cross-examination, she deposed that Ravan Patil was a relative of Bajirao Deore. Ravan Patil's field was near the field of Bajirao Deore. She deposed that Rekhabai, alongwith two other ladies proceeded towards the field of Bajirao Deore at about 8.00 am. Narmadabai and Rekha Pawar (PW-9), returned home after their work at about 9.30 am. Ramdas went to the field of Bajirao Deore at about 10.30 am. Sajan Deore also used to reside in his field. This cross-examination was conducted to fix the time line.

13. PW-8 Ramdas Borase was the father of the deceased Rekhabai. His evidence is similar to the evidence of PW-6. He deposed that the Appellant was working in the field of Bajirao Deore. The Appellant did not want Rekhabai to work. The Appellant used to assault and abuse Rekhabai. PW-8 further deposed that Rekhabai used to complain to him about this. PW-8 used to persuade her to go back and cohabit with the Appellant, but the Appellant continued with his behaviour and used to assault her. The Appellant suspected that Rekhabai was having an affair with Ravan Patil. On the day of incident, Rekhabai, along with Narmada and PW9 Rekha Pawar, went to wash the clothes and utensils. Narmada and PW9 came back and informed that the Appellant had called Rekhabai to their matrimonial residence in the field. Since Rekhabai did not return, PW-8 went to the field of Bajirao Deore. He went inside the shed where the accused used to reside with the deceased. He saw that Rekhabai was lying in a pool of blood. He ran towards his house and informed this fact to the other villagers. He identified the Appellant in the Court.

In the cross-examination, he deposed that, on the previous day of the incident, Rekhabai stayed with PW-8 and PW-6. She left the house at about 8.00 am along with the other ladies, Narmda and PW-9. Both the other ladies returned home at about 9.30 am. When he went to the scene of offence, nobody was there. There were two rooms, one of them was locked. Sajan Deore's house was near the spot of incident. He stated that he never met Sajan Deore or the Police Patil. He deposed that the Police had not enquired with him.

14. PW-9 Rekha Pawar is an important witness in this case. She deposed that she was residing with her uncle and aunt at village – Virgaon. She used to do labour work. On the day of incident, she along with Narmada and Rekhabai, were going to the field of Bajirao Deore for work. They left at 8.00 am. She further deposed that the Appellant met them on the way in the field of Bajirao Deore. The Appellant called his wife Rekhabai to their residence situated in the same field. The deceased Rekhabai went with him. The Appellant told PW-9 and

Narmada, that Rekhabei would return afterwards. Thereafter, PW-9 and Narmada proceeded towards the field of Bajirao Deore. After completing their work, they returned home and narrated this fact to PW-8 Ramdas. She identified the Appellant in the Court.

In the cross-examination, she stated that they reached the field of Bajirao Deore at about 10 am.

15. PW-10 Bajirao Deore was the owner of the agricultural field where the incident had taken place. He deposed that the Appellant was working in his field as a yearly labourer. The Appellant used to reside with his wife and daughter in the shed situated in that field. On the day of incident, at about 6.00 pm, PW-10 came to know about the incident. The Appellant was working with him till the date of incident.

16. PW-11 Sharad Ghuge was the Investigating Officer. He deposed about the investigation. He supervised the spot panchanama. He prepared the inquest panchanama. He recorded the statements of witnesses. He sent the dead body for postmortem examination. He arrested the Appellant on 10th February, 2005. The clothes were seized under the seizure panchanama. The Appellant's pant was recovered at his instance from a banyan tree near village Dang Saudane. He sent the seized articles for chemical analysis. After completion of the investigation, he submitted the chargesheet. He identified the axe produced in the Court.

Apart from the oral evidence, the prosecution has produced the CA report on record, which shows presence of blood of 'B' group on the clothes of the deceased. The Appellant's full pant was stained with human blood, but the blood group was inconclusive. The Appellant's baniyan showed presence of blood of 'B' group. The axe also showed presence of blood of 'B' group.

17. The learned Judge relied on the circumstance of the deceased having been last seen together with the Appellant to convict the Appellant.

Submissions of the learned counsel for the Appellant :-

18. The learned counsel for the Appellant submitted that the case is based on circumstantial evidence. The prosecution has not proved any of the circumstances beyond reasonable doubt. The chain of circumstances is not complete. The father of the deceased PW-8 Ramdas, had not met the Police Patil and Sajan Deore. The FIR was lodged by the Police Patil on the assumption that the Appellant had committed the murder. Therefore, the investigation proceeded only in that direction to show that the Appellant had committed that offence. No other possibility was examined by the Investigating Officer. The recovery of pant at the instance of the Appellant is not trustworthy. The recovery of the blood-stained clothes of the Appellant at the Police Station was suspicious. The pancha admitted that the clothes were kept on the table at the Police Station. The pant recovered from the banyan tree was not sealed, the same fact was admitted by the panchas. There was mismatch of the timing given by PW-6 Mangalabai, the

mother of the deceased, PW-8 Ramdas, the father of the deceased, and PW-9 Rekha Pawar. Another important witness, Narmada, was not examined. The motive for the crime was not established beyond reasonable doubt.

Submissions of the learned APP for the Respondent – State :-

19. The learned APP, on the other hand, submitted that the prosecution had established that there was motive for the Appellant to commit the murder. There was strong circumstantial evidence of last seen theory mentioned by PW9 Rekha Pawar. The dead body was found in the shed in which the Appellant and the deceased Rekhabai used to reside, and therefore it was for the Appellant to give explanation as the burden shifted on him under Section 106 of the Indian Evidence Act, 1872. All these circumstances are proved beyond reasonable doubt. They formed a complete chain. Therefore, though it is a case based on circumstantial evidence, the prosecution has proved its case beyond reasonable doubt.

Reasons and conclusion :-

20. We have considered these submissions. As far as the recovery of the clothes of the Appellant is concerned, we agree with the submission of the learned counsel for the Appellant that it is a doubtful circumstance, as the clothes of the Appellant were kept on the table and the pancha witnesses had not seen the clothes on the person of the Appellant. The pancha admitted that the pant which was recovered at the instance of the Appellant from the banyan tree was not sealed. In any case, the blood-stained pant did not show that it was stained with the blood of 'B' group. The report was inconclusive. Therefore, the recovery of the pant and the seizure of the clothes at the instance of the Appellant, are not incriminating circumstances in this particular case.

21. However, we find force in the submission of the learned APP that there are other circumstances which form a complete chain. The parents of the deceased Rekhabai, deposed about the strained relationship between the Appellant and the deceased. Both of them consistently deposed that the Appellant was suspecting the character of the deceased. The Appellant suspected that the deceased was having an affair with one Ravan Patil. PW-8 Ramdas stated that, even in the past, the deceased used to complain that The Appellant was beating, assaulting and abusing her. Prior to the incident, the deceased had come to reside with her parents.

22. On the day of incident, when she was going to attend her work with other ladies, the Appellant called her. There is no reason to disbelieve the prosecution theory about the motive which has been proved beyond reasonable doubt.

23. The important circumstance in this case is the 'last seen together' theory. PW-9 Rekha Pawar gave clear evidence that she, along with the deceased and the other lady, were proceeding towards the field of Bajirao Deore. At that time, the Appellant called the deceased and told them that the deceased would return

afterwards. The deceased was thereafter found dead in the shed where the Appellant used to reside with her and their daughter. PW-10 Bajirao Deore deposed that the Appellant, the deceased and their daughter used to reside together in the shed in his field. The dead body was found in that shed within a very short time. PW-8 Ramdas got worried when PW-9 told him that the Appellant had called the deceased. Both of them had gone to their residence. PW-8 immediately rushed to the spot and found that the deceased Rekhabai was lying dead and the Appellant was not seen any where. Thus, the period between the deceased accompanying the Appellant and finding of her dead body was very short. The dead body was found in the shed occupied by the Appellant. Thus, in this case, the deceased was last seen together with the Appellant shortly before the incident. This is an incriminating circumstance against the Appellant.

24. The Appellant has not explained about the finding of the dead body in his shed. It is rightly submitted by the learned APP that it was for the Appellant to explain this circumstance under Section 106 of the Indian Evidence Act. The Appellant has not offered any explanation whatsoever. This is another circumstance against him. Thus all these circumstances together form a complete chain unerringly pointing towards the guilt of the Appellant. The prosecution has proved its case beyond reasonable doubt.

25. Therefore, we do not find any merit in the Appeal. The Appeal is accordingly dismissed. With dismissal of the Appeal, the connected Interim Application is also dismissed.