

FORM-A**THE COURT OF THE SESSIONS JUDGE, GIR SOMNATH,
AT-VERAVAL****(Date of Judgment – 20.03.2026****Sessions Case No. 7 of 2020****Veraval City Police Station Cr. No. I/112/2019, Section – 302 ,
392, 397 OF IPC.**

COMPLAINANT	The State of Gujarat
REPRESENTED BY	Ld. A.P.P. Mr. J.D. Pathak for the State.
ACCUSED	Sanjaybhai Dhanjibhai Bariya
REPRESENTED BY	Ld. Advocate Mr. K.G. Dabhi

FORM-B

Date of Offence	11.12.2019
Date of FIR	13.12.2019
Date of Charge sheet	28.02.2020
Date of Framing of Charges	01.09.2021
Date of Commencement of evidence	22.10.2021
Date on Which Judgment is reserved	20.03.2026
Date of the Judgment	20.03.2026
Date of the Sentencing Order, if any	-

Accused Details

No	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	whether Acquitted or convicted	senten ce impose d	Period of Detention Undergone during Trial for purpose of section 428 Cr. P. C
1	Sanjaybhai	13.12.19	25.07.25	lpc-302	Convicted	As per	13.12.2019

	Dhanjibhai Bariya			etc		final order	to 25.07.2025
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FORM-C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. PROSECUTION

Sr. No.	Exhibit	Name of Witness	Description / Particulars
1	21	Jivabhai Ukabhai Mavadhiya	Panch witness of Inquest panchnama
2	23	Ravi Nagindas Anjani	Panch witness of Spot panchnama
3	25	Hiteshbhai Rajeshbhai Khapandi	Panch witness of panchnama
4	32	Chiragbhai Kishorbhai Charva	Panch witness of Arrest Panchnama.
5	36	Jayeshbhai Haribhai Malmadi	Panch witness of discovery panchnama.
6	49	Rakeshbhai Bhailalbai Doriya.	Panch witness of panchnama.
7	51	Mohit Prabhudas Gohel	Panch witness of panchnama
8	54	Anil @ Prakash Jentilal Aagiya	Panch witness of Panchnama
9	55	Harishbhai Mohanlal Vanik	Panch witness of Demonstration panchnama.
10	59	Sumra Afzalbai Hanifbai	Panch witness of Panchnama.
11	61	Jayeshbhai Tapubhai Tank	Panch witness of Panchnama
12	73	Bhavesbhai Govindbhai Anjani	Complainant
13	77	Rajeshbhai Bhagvanbhai Siddhapura	Witness
14	78	Mahendrabhai Hiranandbhai Divan	witness
15	79	Jayaben Jigneshbhai Parmar	Witness
16	83	Mahendrabhai Shyamalbai Dhirvani	Witness
17	84	Jiten Jayantilal Chomal	Witness

Sr. No.	Exhibit	Name of Witness	Description / Particulars
18	98	Dr. Arpanbhai Devjibhai Sikotariya	Doctor
19	101	Purvesh Jaysukhlal Kurani	Scientific Officer
20	104	Dr. Jitendra Samatbhai Rathod	Doctor
21	111	Tarunbhai Shivaji Jana	Witness
22	113	Mahmadsha Jamalsha Shahmadar	Witness
23	114	Kirtibhai Muljibhai Lathigara	Witness
24	116	Govindbhai Lakhmanbhai Solanki	Witness
25	126	Vikas Haribhai Gohil	Panch witness of Panchnama
26	138	Devayatbhai Visabhai Naghera	Witness
27	140	Gopalbhai Chandrakant Bhadiyara	Witness
28	146	Manishbhai Natvarlal Dholakiya	Witness
29	150	Bhavnaben Lakhabhai Mori	Witness
30	151	Bipinbhai Govindbhai Vaghela	Investigating Officer

B. DEFENCE WITNESS, IF ANY:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
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C. DEFENCE WITNESS, IF ANY:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
—	—	—

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. PROSECUTION

Sr. No.	Exhibit No.	Description of Document
1	22	Inquest Panchnama
2	24	Panchnama of the spot.
3	25	Panchnama
4	33	Panchnama
5	34	Muddamal seized by police.
6	37	Discocery panchnama.
7	38	Panch slip.
8	39	FSL Card.
9	40	Panch slip.
10	41	FSL Card.
11	42	Panch slip.
12	43	FSL Card.
13	44	Panch slip.
14	45	FSL Card.
15	50	Panchnama.
16	52	Panchnama.
17	53	Panch slip.
18	54A	Panchnama.
19	56	Demonstration panchnama.
20	60	Panchnama
21	62	Panchnama
22	74	Complaint
23	75	Photograph/Screenshot of camera.
24	76	Photograph/Screenshot of camera.
25	85	Application of Manager, Muthoot Finance to the police regarding fraud.
26	89	Application for Gold loan in Muthoot Finance.
27	90	Declaration/undertaking for loan of accused.
28	91	Loan Pledge Card.
29	92	Declaration of received the loan amount.
30	99	Letter for doing P.M. with panel doctors.

Sr. No.	Exhibit No.	Description of Document
31	100	Refer note.
32	102-103	Spot investigation report.
33	105	P.M. Report of Forensic Medicine Dept, Jamnagar.
34	106	Short report of Forensic Medicine Dept, Jamnagar.
35	107	Police report for forwarding the deadbody for post-mortem examination to the civil surgeon.
36	108	Letter for obtaining the P.M. Note as well as the samples of cloths seized during the investigation.
37	109	Letter to perform the P.M. of the deceased.
38	117	Sale deed of vehicle.
39	127	Panchnama.
40	128	Panch slip.
41	135	Format of Certificate under the provision of Section 65(K)(4)(c) of the Indian Evidence Act, 1872.
42	136	Format of Certificate under the provision of Section 65(K)(4)(c) of the Indian Evidence Act, 1872.
43	141	Deed for giving the money as borrow.
44	142	Copy of cheque of Saurashtra Gramin Bank.
45	147	Receipt of gold.
46	152	Order of investigation.
47	153	Extract of register of missing person.
48	154	Letter for filling of inquest.
49	155	Order of investigation.
50	156	Letter to lodge complaint.
51	157	Special report of greivous offence.
52	158	Authority letter to perform P.M. at Jamnagar.
53	159	Slip for handover the deadbody.
54	160	Letter to add the name of the accused in FIR.
55	161	Annexure-9
56	162	Receipt of gold weight.
57	163	Annexure-9
58	164-165	Statements of witnesses.
59	166	Letter for getting cloths from the dead body and P.M. Note.
60	167	Letter for making map of the scene.

Sr. No.	Exhibit No.	Description of Document
61	168	Letter to verify/inspect the muddamal.
62	169	Outward entry and certificate.
63	170-171	FSL receipt.
64	172	Forwarding Letter of Inspection report.
65	173	Inspection Report.
66	174	Bank Passbook Details.
67	175	R.C. Book of the vehicle of accused.
68	176	Forwarding Letter of Inspection report.
69	177	Investigation Report.
70	178	Closing pursis.

B. Defence :

Sr. No.	Exhibit Number	Description
-	-	-

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
-	-	-

GJGS010002522020



Received on : 17.03.2022
Registered on : 17.03.2022
Decided on : 20.03.2026
Duration : YY MM DD
04 -00 -03

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**IN THE COURT OF PRINCIPAL DISTRICT AND
SESSIONS JUDGE, GIR-SOMNATH AT VERAVAL.**

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Sessions Case No. 07 OF 2020

Exh._____.

Complainant : State of Gujarat

V/s.

Accused : **Sanjaybhai Dhanjibhai Bariya**
Age : 28, Occupation : Trade,
R/o. : Veraval, Tal. : Veraval.

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Appearance :-

Ld. A.P.P. Mr. J.D. Pathak for the State.

Ld. Advocate Mr. K.G. Dabhi for the Accused person.

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:: J U D G M E N T ::

(1) In connection with this case, offences under Sections 302, 392, and 397 of the Indian Penal Code have been registered against the accused named above at Veraval City Police Station, vide Crime Register No. First-112/2019.

(2) Brief facts of the prosecution case are as under:

- The complainant is Bhaveshbhai Govindbhai Anjani, caste Kharva, aged 30 years, occupation fishing, resident of Kalyan Society, Salat Society Road, "Prabhu", Veraval City.
- The complainant has stated in his complaint that he resides at the above address along with his family. His mother used to manage the household work and was suffering from pain in her legs, due to which she used to go daily at around 5:00 p.m. to a physiotherapy center near Ambaji Temple for exercise.
- On 11/12/2019, at about 10:00 a.m., the complainant, his elder brother Sunil, Sunil's wife Kavtaben, and the complainant's mother Manjuban (aged 55 years) were present at home.
- As per her daily routine, Manjuban left the house at around 10:00 a.m. to buy vegetables and to visit the nearby Bajrang Temple. Thereafter, both brothers left for the harbor for their occupation. At around 3:30 p.m., when both brothers returned home, the complainant's mother was not present.

- They assumed that she might be resting in the upstairs room. In the evening, the complainant went to the gym for exercise. At around 8:30 p.m., the complainant received a phone call from his sister Jayaben, who informed him that their mother had not returned home.
- Thereupon, the complainant returned home and inquired with family members, whereupon it was learned that his mother had left at around 10:00 a.m. for buying vegetables and visiting the temple and had not returned thereafter.
- All family members started searching for Manjuban on their own, but she could not be found.
- On 12/12/2019, at around 3:30 p.m., the complainant along with his friends Akashbhai Devjibhai Jungi and Vijaybhai Chomal, residents of Veraval, came to Veraval Police Station and gave information regarding the missing of his mother.
- Thereafter, the police began searching for the complainant's mother. The complainant and his cousin (maternal aunt's son) Ishwar Ashvinbhai Thavar went searching via Dabhor Road towards deserted places. At around 9:30 p.m., on the road from

Veraval Bypass towards Prabhas Patan, opposite "Madhuvan Hotel," near Namaste Hotel, they noticed a plastic sack lying in a roadside ditch, containing some object and tied at the mouth, which appeared suspicious. The complainant immediately informed the police.

- Upon arrival, the police opened the sack and, using torchlight, found a human dead body, appearing to be that of a woman based on clothing. The sack containing the dead body was brought to Veraval Government Hospital, where, upon opening the sack, the dead body was identified by the complainant as that of his mother Manjuban.
- It was noticed that Manjuban was not wearing her usual gold ornaments, namely earrings with studs, mangalsutra, gold chain, and four gold bangles, which she habitually wore.
- Therefore, it appeared that unknown persons, with the intention of robbing the gold ornaments worn by the complainant's mother, committed the offence between 10:00 a.m. on 11/12/2019 and 9:30 p.m. on 12/12/2019, robbed gold ornaments weighing approximately 10 tolas,

worth about Rs. 2,50,000/-, murdered the complainant's mother, placed her dead body in a plastic sack, dumped it in a deserted roadside area, and fled.

- Accordingly, the complainant lodged a complaint before Police Inspector Shri N. G. Vaghela, Veraval City Police Station.

CHARGE SHEET AND COMMITTAL

- (3) Upon receiving the above complaint personally from the complainant, Police Inspector Shri N. G. Vaghela recorded the detailed complaint and forwarded it with a report to the P.S.O. The P.S.O. registered the offence at Veraval City Police Station vide C.R. No. First-112/2019 under Sections 302 and 392 of the Indian Penal Code, made necessary entries in the station diary, and entrusted further investigation to Police Inspector Shri P. I. Vaghela.
- (4) During the course of investigation, the Investigating Officer took charge of the case, brought the dead body to the hospital, prepared the inquest panchnama, conducted post-mortem examination, collected necessary samples, recorded statements of witnesses acquainted with the incident, prepared panchnama of the place of occurrence, conducted scene inspection through the FSL officer, collected CCTV footage, interrogated the accused upon

finding involvement in the crime, arrested the accused, conducted demonstration panchnama with the accused, prepared a map of the scene of offence, obtained CDRs of the accused's mobile phone, got the recovered ornaments identified by the complainant, recorded statements regarding monetary transactions made by the accused, seized the vehicle used in the offence, sent muddamal to FSL, and upon finding sufficient evidence against the accused, filed Charge-sheet in Criminal Case No. 261/2020 before the Court of the Learned Additional Chief Judicial Magistrate, Veraval.

- (5) Thereafter, the Learned Additional Chief Judicial Magistrate, Veraval, supplied copies of police papers to the accused and, since the offences were triable exclusively by the Sessions Court, committed the case to the Sessions Court by an order under Section 209 of the Code of Criminal Procedure.
- (6) After committal of the case, the predecessor Sessions Judge, after satisfying himself that copies of police papers had been supplied, framed charges against the accused under Section 228 of the Code of Criminal Procedure. The charge was read over and explained to the accused, who pleaded not guilty and claimed to be tried. Thereafter, trial proceedings commenced.

- (7) Following the basic principles of evidence and provisions of the Code of Criminal Procedure, the case was placed for prosecution evidence. The prosecution examined witnesses as mentioned in Form-C and produced documentary evidence as listed thereafter. Upon completion of evidence, the learned APP declared closure of prosecution evidence vide Exhibit-178.
- (8) To provide the accused an opportunity to explain the evidence against him, a statement under Section 313 of the Code of Criminal Procedure was recorded. In the said statement, the accused claimed that he is completely innocent, that he has not committed any offence, that a false case has been fabricated against him, that false evidence has been created and a false charge-sheet filed against him, and reiterated his innocence. The accused neither examined himself on oath nor examined any defence witnesses.
- (9) All the above oral and documentary evidence produced by the prosecution has been carefully perused. The detailed arguments advanced by Learned Additional Public Prosecutor Shri J. D. Pathak on behalf of the State and Learned Defence Counsel Shri K. G. Dabhi on behalf of the accused have been heard. Further, on behalf of the original complainant, Learned Advocate Shri D. S. Gambhir has submitted written arguments at Exhibit-179.

ARGUMENTS

(10) The learned Additional Public Prosecutor appearing for the prosecution has submitted that the accused, with the intention of robbing the gold ornaments worn by the deceased, upon getting an opportunity, committed the offence against deceased Manjuben w/o Govindbhai Anjani, It is submitted that on 11-12-2019, at around 10:00 a.m., the deceased left her house to go to Bajrang Temple at Bajrang Chowk and to purchase vegetables. The accused was running a sugarcane juice stall at Bajrang Chowk, Veraval. Knowing that the deceased was suffering from joint pain in her legs, the accused, with the intention of robbing her gold ornaments, told her that treatment for leg pain could be taken from a traditional healer. Thereupon, the accused took the deceased in Auto Rickshaw of Prosecution Witness No. 33 from Bajrang Chowk up to Veraval Community Hall, and from there seated her in his Maruti Suzuki Ertiga four-wheeler and proceeded towards Dabhor Road. The accused took the deceased to Prosecution Witness No. 43 for treatment of joint pain, thereafter drove around on the highway for some time, and at around 2:00 to 2:30 p.m. on 11-12-2019, beyond Sai Baba Temple, in Dari Sim area, on a kaccha road leading towards the seashore, near an old lime kiln, parked his Maruti Suzuki Ertiga bearing registration No. GJ-01-KR-6008.

While the deceased was seated on the middle seat of the car, the accused pushed her down on the seat and caused her death by smothering her mouth and nose with a pillow. Thereafter, the accused robbed gold ornaments worn by the deceased weighing approximately 10 tolas, valued at about Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand). The accused then placed the dead body in a plastic sack and, during nighttime, threw it in a deserted, bushy ditch on the Somnath-bound side of the highway near Madhuvan Hotel, situated on the Veraval Bypass-Somnath Road, thereby committing a grave and heinous offence.

It is further submitted that the prosecution has produced all necessary oral and documentary evidence to prove the said offence, and from such evidence, the guilt of the accused stands proved. Hence, the prosecution has prayed that the accused be awarded the maximum punishment as prescribed under law.

- (11) *Per contra*, learned Advocate Mr. K. G. Dabhi, appearing for the accused, has submitted that the prosecution has failed to prove its case beyond reasonable doubt by the oral and documentary evidence produced on record. He argued that the accused is completely innocent a person, that he has not committed any offence, and that he has no knowledge whatsoever regarding the alleged incident. It is

contended that the accused has been falsely implicated in the present crime and that he has neither murdered the deceased nor robbed her ornaments. It is further argued that even if all the evidence produced by the prosecution is considered collectively, it does not establish the involvement of the accused in the offence. None of the witnesses examined by the prosecution have claimed to be eye-witnesses to the incident. The entire prosecution case is based solely on circumstantial evidence, and in cases based on circumstantial evidence, unless all links in the chain are conclusively and completely established, the guilt of the accused cannot be said to be proved.

It is submitted that in the present case, according to the defence, not a single link of such circumstantial evidence is proved, and therefore the prosecution has failed to prove its case against the accused beyond reasonable doubt. It is further submitted that although the complainant has been examined, he has not witnessed the incident. The CCTV footage collected by the investigating agency merely shows that the accused, who was known to the deceased, helped her due to her leg pain by taking her in a rickshaw to the Community Hall and thereafter in an Ertiga car to a person named Mohammad Shahmadar for treatment. However, this by itself does not establish that the accused

murdered the deceased or robbed her ornaments.

The defence further contends that the gold ornaments seized by the police have not been conclusively proved to belong to the deceased, as no bills or documentary proof have been produced by the prosecution to establish ownership of the ornaments. Thus, even if it is assumed that the death of the deceased occurred due to injuries, there is no evidence on record to show that the accused caused death by pressing her mouth and nose with a pillow, nor is there any evidence of intention or premeditation on the part of the accused. Hence, the act of the accused does not fall within the definition of murder under Section 300 IPC, and the prosecution has failed to prove the charge under Section 302 IPC beyond doubt. Accordingly, the defence has prayed that the accused be acquitted.

In support of their submissions, reliance has been placed on the following judgments:

1. *2025 SCC Online 1387* - State of Rajasthan v. Hanuman
2. *2023 Live Law (SC) 41* - Jabir & Ors. v. State of Uttarakhand.
3. *2022 Live Law (SC) 529* - Chandrapal v. State of Chhattisgarh.

4. *Criminal Appeal No. 2748 of 2025* - Padman Bibhar v. State of Odisha.

5. *Criminal Appeal No. 17440 of 2024* - Padman Bibhar v. State of Odisha.

(12) Upon considering the oral and documentary evidence on record, the submissions made by the learned advocates for both sides, and the facts and circumstances of the case, the following issues arise for determination:

1. Whether the prosecution proves beyond reasonable doubt that the death of deceased Manjuben Govindbhai Anjani was a homicidal death?
2. Whether the Prosecution proved beyond reasonable doubt that the Accused persons had intention and knowledge that the injuries inflicted by suffocating the deceased were sufficient in the ordinary course of nature to cause death and had committed an offence under section 302 i.e. murder?
3. Whether the prosecution proves beyond reasonable doubt that the accused, with the intention of robbing the gold ornaments worn by the deceased and robbery in the manner alleged, thereby committing offences punishable under Sections 392, and 397 of the Indian Penal Code?

4. What order?

(13) My findings on the above issues, along with reasons, are as under:

1. In the affirmative.
2. In the affirmative.
3. In the affirmative.
4. As per the final order.

:: REASONS ::

(14) Having considered the submissions advanced by the learned Additional Public Prosecutor on behalf of the prosecution and the arguments advanced on behalf of the accused, and in view of the fact that a charge has been framed against the accused for an offence punishable under Section 302 of the Indian Penal Code, it becomes necessary to examine whether, on the basis of the evidence produced in this case, the prosecution has succeeded in proving the offence against the accused. For that purpose, a discussion of the entire oral evidence led by the prosecution is required.

(15) Before discussing the prosecution evidence with reference to Issue No. 1, it is necessary to note that while conducting a trial against an accused for an offence under Section 302 of the Indian Penal Code, the prosecution is required to first prove the following essential ingredients:

1. That a culpable homicide has occurred.
2. That the accused committed an act.
3. That such act resulted in the death of the victim (the term "act" also includes omission).
4. That the act was committed by the accused with the intention of causing death, or with the knowledge that the bodily injury caused was likely to result in death, and that such bodily injury was intentionally inflicted.
5. That the injury intended to be inflicted by the accused was sufficient in the ordinary course of nature to cause death.
6. Whether the act committed by the accused falls under any of the five exceptions to Section 300 IPC, or under any general exception; if the accused has taken a specific plea of exception, the same is required to be considered.
7. If the act of the accused does not fall under any exception to Section 300 IPC, the culpable homicide amounts to murder, and the accused can be punished under Section 302 IPC.
8. If the act of the accused falls under any exception to Section 300 IPC, then the offence would not amount to murder, and punishment may be imposed under Section 304 IPC.

Further, under the Indian Penal Code, there are three categories of punishable homicide:

- (i) culpable homicide amounting to murder,
- (ii) culpable homicide not amounting to murder, and
- (iii) death caused by rash or negligent acts.

In all three categories, death occurs; however, the distinction lies in the intention, knowledge, and degree of negligence of the offender. It is not the act alone but the criminal intent behind the act that is punishable. Criminal liability is determined not merely by the result but by the intended or probable consequence of the act. Criminal intent, criminal knowledge (awareness of probable consequences), and the degree of negligence are the three factors that determine punishment.

- (16) It is also necessary to note that the burden of proving that the act of the accused falls within any of the exceptions provided under Section 300 IPC or under any general exception lies upon the accused. The burden of proving the offence against the accused beyond all reasonable doubt always remains upon the prosecution and never shifts or diminishes. The burden on the accused to prove an exception is governed by Section 105 of the Indian Evidence Act. The prosecution is not required to prove negatively that no exception applies. Once the prosecution proves beyond reasonable doubt that the

accused committed culpable homicide amounting to murder, the Court is entitled to presume the absence of exceptional circumstances. The burden then shifts to the defence to rebut such presumption. The standard of proof required from the defence is lower than that required from the prosecution. The defence is only required to establish probability or possibility sufficient to raise doubt. The defence need not prove that the prosecution case is false, but only needs to show that the prosecution case may not be true. The defence may rely on oral or documentary evidence, or even on admitted or undisputed facts emerging from the prosecution evidence itself, to establish the applicability of an exception. Ultimately, the Court must undertake a comparative evaluation of the credibility of the prosecution evidence and the probability of the defence plea.

- (17) Before discussing the present case, it is necessary to keep in mind the well-established principles of criminal law laid down by various High Courts and the Hon'ble Supreme Court of India, which require that the prosecution must prove its case completely, accurately, and beyond reasonable doubt. As per recent judgments of the Hon'ble Supreme Court, the Court is required to separate truth from falsehood, meaning that even if certain weaknesses, defects, or lacunae appear in the

prosecution case or arise due to negligence of the investigating officer, the entire prosecution case cannot be discarded outright, because truth remains truth. At the same time, the Court must remain vigilant to ensure that an innocent person is not punished due to false implication, and equally ensure that a guilty person does not escape punishment. The Court must also focus not on the quantity of witnesses, but on the quality of evidence. Even the testimony of a single witness, if found natural, credible, reliable, and trustworthy, is sufficient to base a conviction. Conversely, if the testimony of numerous witnesses is found unreliable or unnatural, it may be rejected. Each case depends upon its own facts and circumstances. Merely because a prosecution witness is an interested witness does not mean that such witness is necessarily unreliable. However, when the prosecution case rests on such testimony, it must be subjected to careful and meticulous scrutiny. The Court must ensure that justice is done to the victim (victimology), that principles of criminal law are upheld, and that no prejudice is caused to the accused.

Issue No. 1 :

(18) Keeping the above legal position in mind, while examining the evidence on record with reference to Issue No. 1, the question to be determined is whether the death of

deceased Manjuben Govindbhai Anjani was a homicidal death.

The most crucial evidence in this regard is the testimony of Dr. Jitendrabhai Samatbhai Rathod (PW-20, Exhibit-104), the post-mortem note at Exhibit-105, the inquest panchnama at Exhibit-22, and the testimony of inquest pancha witness Jivabhai Ukabhai Mavdhiya (PW-1, Exhibit-21).

- (19) The prosecution examined Jivabhai Ukabhai Mavdhiya (PW-1) as the panch of the inquest panchnama. He stated that on 12-12-2019 at about 11:00 p.m., police called him and his wife to Veraval Government Hospital for preparing the inquest panchnama. The dead body was lying in the post-mortem room and was that of a female. The deceased was wearing a yellow and green saree with red and white floral design, a yellow blouse with green border, and a mehendi-coloured petticoat. He noticed abrasion marks on the left wrist, reddish marks on the abdomen, red and black marks on the right side of the chest, black marks on the back, swelling on the rear portion of the body, and peeling of skin at certain places. He identified the deceased as the mother of Bhaveshbhai Govindbhai Anjani and proved the inquest panchnama at Exhibit-22, identifying his signature.

In cross-examination, he admitted

that he did not write the panchnama himself and that he signed it as prepared by police. However, nothing has emerged in cross-examination to discredit the procedure or the injuries noted therein. Thus, from the inquest panchnama and this witness's testimony, it is proved that the deceased's body bore external injuries.

Further, the prosecution examined Dr. Jitendrabhai Samatbhai Rathod (PW-20), who conducted the post-mortem on 13-12-2019. He deposed that the post-mortem was conducted between 9:45 a.m. and 11:00 a.m., and noted multiple ante-mortem injuries, including crescent-shaped nail marks on both cheeks, abrasions inside the lower lip, pressure abrasions on the face, injuries on the tongue, and facial congestion. He opined that the cause of death was asphyxia due to smothering, caused by pressing the mouth and nose with a pillow or similar object. Relevant documents including the post-mortem note and opinion were produced at Exhibits 105 to 109.

The cross-examination of the medical witness did not dislodge his opinion. Upon considering the entire medical evidence and documentary exhibits, it is clearly established that the death of the deceased was caused by smothering, resulting in asphyxia. Therefore, the prosecution has proved beyond reasonable doubt that the death of Manjuben Govindbhai

Anjani was a homicidal death, and accordingly, Issue No. 1 is answered in the affirmative.

Issue No. 2 :

(20) In view of the finding recorded on Issue No. 1 that the death of the deceased was a homicidal death, the question that now arises is as to to what extent the accused is responsible for the death of the deceased. When the prosecution case is examined in this context, it is alleged that the accused, having noticed the gold ornaments worn by the deceased, formed an intention to rob the said ornaments. On 11-12-2019, at around 10:00 a.m., when the deceased left her house to go to Bajrang Temple at Bajrang Chowk and to purchase vegetables, the accused—who was running a sugarcane juice stall at Bajrang Chowk, Veraval—knowing that the deceased was suffering from joint pain, induced her on the pretext of treatment by a traditional healer. With the intention of robbing her ornaments, the accused took the deceased in an auto rickshaw driven by Witness No. 33 from Bajrang Chowk up to Veraval Community Hall, and from there seated her in his four-wheeler (Maruti Suzuki Ertiga) and proceeded towards Dabhor Road, where he took her to Witness No. 43 for massage treatment for joint pain. Thereafter, the accused drove around with the victim on the

highway and at about 2:00 to 2:30 p.m., beyond Sai Baba Temple, in Dari Sim area, on a kaccha road leading towards the seashore near an old lime kiln, parked his Maruti Suzuki Ertiga bearing registration No. GJ-01-KR-6008. While the victim was seated on the middle seat of the car, the accused pushed her down and caused her death by pressing her mouth and nose with a pillow. He then robbed gold ornaments worn by the deceased weighing approximately 10 tolas, valued at about Rs. 2,50,000/-. The accused packed the dead body in a plastic sack and, during nighttime, dumped it in a deserted bushy ditch on the Somnath-bound side of the highway near Madhuvan Hotel, situated on the Veraval Bypass-Somnath Road. On these allegations, a charge-sheet has been filed against the accused for offences punishable under Sections 302, 392, and 397 of the Indian Penal Code.

(21) In order to prove its case, the prosecution has examined several witnesses. First, considering the evidence of the complainant, **PW-12 Bhaveshbhai Govindbhai Anjani at Exh-73**. He stated that the incident occurred on 11-12-2019. On that day, he and his brother had left for port-related work at around 10:00 a.m., while his mother had gone out to purchase vegetables and to visit Bajrang Temple. In the evening, when they returned home, his sister Jayaben informed them over the phone that their mother had not yet returned.

They then contacted relatives and subsequently informed the police the next day. Thereafter, while searching for their mother along with his cousin Ishwar Ashwin Thawar, they were travelling from Dabhor Road towards the Somnath bypass, where near Madhuvan Hotel, they noticed a white plastic sack lying by the roadside. They informed the police, who arrived and took the sack to the government hospital, where it was later confirmed that the body was of his mother. He further stated that the mangalsutra, gold chain, two earrings, one nose ring, and four gold bangles worn by his mother were missing, and therefore he lodged a complaint with the police, which is produced at Exhibit-74, identifying his signature. He further deposed that the police later showed him CCTV footage, in which the accused was seen taking his mother in an auto rickshaw up to the Community Hall and thereafter in a car. The accused took her to Mohammad Vaid for massage, smothered her by pressing her mouth with a pillow, killed her, and robbed her ornaments. The mangalsutra and gold chain were later recovered from the accused's house. The witness identified the accused, the deceased, the auto rickshaw, and the car in the CCTV footage. In cross-examination he is admitted that his mother to difficulty in walking, his/her mother used to regularly visit Dr. Bhaskar Tripathi every day for physiotherapy

exercises. It is further admitted that at the time when his/her mother left the house, she had not informed them as to where she was going. It is also admitted that in the complaint lodged by them, the name of any person has not been mentioned as an accused. It is further admitted that at the time of filing the complaint, they have not provided specific details or the exact names of the persons whom they had contacted by phone.

This witness is not an eye-witness to the incident but has deposed based on information received and CCTV footage viewed.

To further establish the accused's involvement, The prosecution examined **PW-13 Rajeshbhai Bhagwanjibhai Siddhpura at Exh-77**, the auto rickshaw driver. He stated that on the date of the incident, the accused hired his rickshaw at Bajrang Chowk to go to the Community Hall, seating himself and an elderly woman inside, and dropped them near the Community Hall. He further stated that on the next day, the accused again hired his rickshaw saying he wanted to go to Somnath, Mangrol, and Madhada. Later, police contacted him regarding the missing elderly woman. He identified the accused. Despite cross-examination, it stands proved that on the date of the incident, the deceased was travelling along with the accused in this

witness's rickshaw and alighted together near the Community Hall.

In cross-examination he admitted that during a period of 15-16 years, it is not possible for that to personally recognize every passenger who has traveled in his rickshaw. He further admitted the fact that they had gone to drop someone at the community hall, which is surrounded by residential areas on all four sides. He also admitted the fact that he had no occasion to have any conversation with the woman who was seated in the rickshaw.

The relevant portion of his deposition is reproduced herein vernacular language :-

- " (૧) હું વેરાવળ ખાતે રહું છું, રીક્ષા ડ્રાઇવિંગ કરી મારુ ગુજરાન ચલાવું છું. વર્ષ ૨૦૧૮ માં મારી પાસે નાની રીક્ષા હતી. મારી પાસે તે રીયર એન્જીન વાળી ડીઝલ રીક્ષા હતી. જેનો નંબર-જીજી-૧૧-૨૦૪ હતો.
- (૨) સવારના સાડા દશ વાગ્યાનો સુમાર હશે, હું મારી રીક્ષા લઈને બજરંગ ચોકમાં ઉભો હતો. ત્યાં એક ભાઈ આવેલા. મને કહેલ કે, 'ભાડુ ભરવાનું છે તું રીક્ષા લઈ લે.' મેં તેમને ક્યાં જવું છે તેમ પુછેલું. તો તેમણે કહેલ કે, "કોમ્યુનીટી હોલે જવું છે." પછી તે ભાઈને મેં રીક્ષામાં બેસાડેલા. થોડેક આગળ ગલીમાં ટર્ન મારતા તેમણે ગાડી રોકાવેલી, ત્યાં એક ડોશીમાં બેઠા હતા, તેમને લઈ આવીને રીક્ષામાં બેસાડેલા, પછી રીક્ષા ચાલુ કરી કોમ્યુનીટી હોલ પાસે પહોંચેલ, તો મને કહેલ કે, "એક ગલી વટાવી આગળ લઈ લે." જેથી હું રીક્ષા એક ગલી આગળ લઈ ગયેલો ત્યાં બેચ જણા ઉતરી ગયેલા. ઉતર્યા બાદ ડોશીમાંએ મને પુછેલ કે, 'શુ દેવાનું છે.' મેં ડોશીમાંને કહેલ કે, પચાસ રૂપીયા ભાડુ થયું છે, જેથી ડોશીમાંએ મને પચાસ રૂપીયા આપેલ. હું ભાડુ લઈ ત્યાંથી નીકળી ગયેલ.
- (૩) પછી બીજા દીવસે દશ-સાડાદશ વાગ્યાનો સમય હશે ત્યારે, હું સવારે ઉઠીને બજરંગ ચોકમાં ગયો હતો. પછી ત્યાં તે ભાઈ ઉભા હતા, આવીને પાછુ મારી રીક્ષાએ પુછ્યું કે, "સોમનાથ જવું છે." મેં તે ભાઈને જણાવેલ કે,

આજે સીઓ ચેકીંગ છે, જેથી મારે નથી આવવું. તે ભાઈએ મને કહેલ કે, "પચાસ રૂપીયા વધારે લઈ લે જે, થોડું ફરીને લઈ લે." પછી મેં હા પાડેલ અને તે ભાઈને રીક્ષામાં બેસાડી હું અલીભાઈ સોસાયટી થઈ, ફરીને સોમનાથ-ત્રીવેણી રોડ ઉપર પહોંચેલ. ત્યાં તેમણે ત્રીવેણી ઉપર સોમનાથ દાદાનું મંદીર છે ત્યાં અમે દર્શન કરવા ગયા. મેં છેટેથી દર્શન કરેલા અને તે મંદીરમાં અંદર દર્શન કરવા ગયેલ. હું દર્શન કરીને આવીને મારી રીક્ષાએ બેસી ગયેલ. એ ભાઈ પાછા પંદર મીનીટમાં આવેલા.

- (૪) પાછા આવ્યા બાદ તે ભાઈએ મને કીધું કે, "માંગરોળ જવું છે." મેં તેમને કહેલ ભાડુ વધી જશે." તે ભાઈએ કહેલ કે. "વાંધો નહી ભાડુ જે થતુ હશે તે દઈ દઈશ." ત્યાંથી અમે બાયપાસ રોડ પકડી માંગરોળ રોડ ઉપર ખોડાદે મંદીર આવેલ છે ત્યાં ગયેલા, ત્યાં દર્શન કરી પ્રસાદી લીધેલ. ત્યાંથી બહાર નીકળ્યા અને રીક્ષા ચાલુ કરી અને માંગરોળ રોડ ઉપર પહોંચ્યા, ત્યાં ડી-સ્ટાફના સાહેબનો ફોન આવ્યો. સાહેબે મને કીધેલ કે, "એક ડોશીમાં તમારી રીક્ષામાં બેસેલ હતા તેવી શંકા છે, તે મળતા નથી ગાયબ છે." સાહેબને મેં જણાવેલ કે, "હું માંગરોળ રોડ ઉપર છું, હું જેવો વેરાવળ આવુ તરત તમને ફોન કરીશ."
- (૫) ત્યારબાદ મારી સાથે રીક્ષામાં હતા તે ભાઈએ મને કહેલ કે, "આપણે મઢડા જવુ ગયેલ નથી. તો તે છે, તમે ક્યારેય ગયા છો ?" તો મે તેમને જણાવેલ કે, હું મઢડા ભાઈએ કહેલ કે, "હું રસ્તો બતાવીશ, ચાલો ત્યાં પણ દર્શન કરવા જવુ છે." પછી અમે આગળ વધેલા. પછી તે ભાઈએ મને પુછેલ કે, "કોનો ફોન હતો." મેં તે ભાઈને જણાવેલ કે, ડી-સ્ટાફનો ફોન હતો, મારી ગાડીમાં ડોશીમાં બેઠેલ હતા તે ગાયબ થઈ ગયા છે એટલે ડીસ્ટાફ વાળાનો ફોન હતો, હું અહીંયાથી વેરાવળ પોગુ એટલે મારે ત્યાં જવુ પડશે, માજી ગાયબ છે."
- (૬) પછી અમે સોનલમાંના મંદીરે ગયેલ. ત્યાં દર્શન કર્યા અને દર્શન કરીને રીટર્ન થયા. તે પછી તે ભાઈ થોડા ગભરાતા હતા. પછી રસ્તામાં તેમણે મને એવી વાત કરી, "એ ડોશીમાં કયા ?, આપણે કોલે મુકવા ગયા હતા તે જ?" પછી મેં તે ભાઈને કહેલ કે, હું ભાડા તરીકે મુકવા આવેલ, કોમ્યુનિટી હોલ પાસે તમે ઉતરી ગયેલા પછી તમે ક્યાં ગયેલા તે મને ખબર નથી.
- (૭) પછી હું રીક્ષામાં તે ભાઈને લઈને સીધે સીધો વેરાવળ પહોંચેલો, ગોલારાણા સોસાયટી પાસે ગાડી તે ભાઈએ ગાડી ઉભી રખાવી, મને પુછ્યુ, "શું દેવાનુ છે ?" મેં તેમને કહેલ કે, બારસો રૂપીયા." તો તેમણે મને બારસો રૂપીયા આપેલ. પછી મેં ૮૦ ફુટના રોડ ઉપર સ્ટેટબેંક છે ત્યાં મારી ગાડી ઉભી રાખી, નટુભાઈ કરીને ડીસ્ટાફના સાહેબ છે તેને ફોન કરેલો અને જણાવેલ કે, "હું વેરાવળ આવી ગયો છું અને તમો કહો ત્યાં હું આવુ."

- (૮) સાહેબે મને કહેલ કે, "પાટણ દરવાજા પોલીસ ચોકીએ આવી જા." જેથી હું પાટણ દરવાજા પોલીસ ચોકીએ ગયેલ. મેં ત્યાં જઈને પુછ્યુ કે, ડીસ્ટાફ વાળા સાહેબનો ફોન આવ્યો હતો તે વખતે નામની ખબર ન હતી, પોલીસ સ્ટેશનમાં મેં જઈને પુછ્યુ તે ભાઈએ મને, "સામે બેઠા છે એ ડીસ્ટાફ વાળા" તેમ કહી એક સાહેબ બતાવેલા, પછી હું તેમને જઈ મળેલો અને તેમનુ નામ જાણેલુ તો તે નટુભાઈ હતા.
- (૯) તે સાહેબે મને વાત કરી કે, "ગઈકાલે તમારી ગાડીમાં જે ડોશીમાં બેઠેલા તે ગાયબ છે અને હજુ મળ્યા નથી, અમને શંકા છે." મેં સાહેબને કહેલ કે, 'હું રીક્ષામાં ઘણા પેસેન્જરો સારતો(ફરવતો) હોઉં, જો ડોશીમાંનો ફોટો હોય તો મને બતાવો." પછી સાહેબે મને ફોટો બતાવેલો. પછી મેં ફોટો જોઈ સાહેબને જણાવેલ કે, "આ માનુને દશ-સાડાદશના ગાળામાં હું બજરંગ ચોકમાંથી લઈ કોમ્યુનીટી હોલ પાસે મુકી આવ્યો હતો." પછી સાહેબને મેં બીજા ટીપ્સની બધી વીગત પણ જણાવેલી.
- (૧૦) મારી સાથે રીક્ષામાં બેઠેલા અને પછી ડોશીમાંને બેસાડ્યા અને તે ડોશીમાંને કોમ્યુનીટી હોલ લઈ જવાનુ કહી મારી રીક્ષામાં ડોશીમાં સાથે બેઠેલા અને બીજે ટીપ્સે સોમનાથ અને ત્યારબાદ ત્યાંથી આગળ ખોડાદે અને પછી મઢડા થઈ વેરાવળ મારી રીક્ષામાં આવેલા હતા, તે ભાઈને બતાવાવમાં આવે તો આજે હું જોઈને ઓળખી શકું. મને તે ભાઈના નામની પાછળથી ખબર પણ પડેલી, પણ હાલે યાદ નથી. આ ભાઈ બજરંગ મંદીર છે ત્યાં ટીવાબતી કરતા હતા અને બાજુમાં તેમનો રસનો ચીચોડો પણ હતો તે રીતે હું તેમને જોયે ઓળખું છું."

(22) According to the complainant's evidence, the accused had taken the deceased to Mohammad Vaid for massage. In this regard, The prosecution examined **PW-22 - Mohammadsha Jamalsha Shahmadar at Exh-113.** He stated that the accused brought the deceased, Manjuben, to him for leg treatment. Since his ribs were fractured, he declined to provide treatment and instead advised massage, which the accused arranged. He stated that the accused arrived in a four-wheeler at around 9:30 a.m. and left at around 10:00 a.m. He

identified the accused. Thus, it is proved that the deceased was with the accused on the date of the incident and that the accused took her in a four-wheeler from the Community Hall.

The relevant portion of his deposition is reproduced hereunder in vernacular language :-

''(૨) હું આરોપીને ઓળખું છું. તેઓ વેરાવળમાં રહે છે તેની વાડી પહેલા અમારી વાડીની પાસે હતી એ એણે વેચી નાંખી અને એ સીવાય અમારે મજુરોની જરૂર હોય તો વેરાવળથી મજુરો લઈને મારે ત્યાં આવતા એ રીતે ઓળખું છું. મજુરમાં એના પપ્પા અને એ લોકો પણ આવતા. આ સંજયભાઈ મંજુબેનને લઈ અને મારે ત્યાં પગની સારવાર કરાવવા લાવેલા. એ વખતે મારા બે પાંસળા તુટી ગયેલા તેથી મેં કહેલુ કે, હું સારવાર કરી શકીશ નહીં પણ હું કહેતો જાઉં એ રીતે તું કર એવુ કહેલું અને એ રીતે સંજયભાઈએ એ બાઈ મંજુબેનની માલીશ કરી આપેલી. એ લગભગ સાડા નવ વાગે સવારે ફોર વ્હીલ લઈને આવેલો અને દશ વાગે વચો ગયેલ. પછી એ ક્યાં ગયેલો એની મને ખબર નથી. પછી પોલીસ અમારે ત્યાં આવેલી અને મારી પુછપરછ કરેલી. મેં હું જાણતો હતો એ લખાવેલ.''

Regarding ownership of the Maruti Suzuki Ertiga, the prosecution examined **Witness No. 24 - Govindbhai Lakhmanbhai Solanki at Exhibit-116**, who deposed that he sold the Ertiga car to the accused due to inability to pay instalments. Though formal RTO transfer was not completed, it stands proved that the accused had possession and use of the said vehicle.

(23) The prosecution further alleges that the accused murdered the deceased with the intention of robbing her ornaments and that incriminating articles were recovered during investigation. In this regard, the prosecution produced the discovery panchnama at Exhibit-37 and examined **PW-5 Jayeshbhai Haribhai Malamdi at Exh-36**. He stated that on 13-12-2019, the accused led the police to the scene of offence, where a pillow and the deceased's spectacles were recovered. Thereafter, the Ertiga car was seized, followed by recovery of Rs. 91,000/-, clothes of the accused, and subsequently a mangalsutra and gold chain from the accused's house, which were confirmed to be gold. Despite extensive cross-examination, his testimony remained intact.

(24) From the above evidence, it is established that during custody, the accused led to discovery of the pillow used in the offence, the Ertiga car, the deceased's spectacles, Rs. 91,000/- obtained by pledging bangles with Muthoot Finance, and gold ornaments. To prove the pledging of gold bangles, the prosecution examined **PW-17 Jitenbhai Jayantilal Chomal at Exh-84**, an employee of Muthoot Fincorp Ltd. He stated that on 11-12-2019 at around 3:00 p.m., the accused pledged four gold bangles and obtained a loan of Rs. 1,90,000/-. Relevant documents were produced at Exhibits 89 to 92.

In the cross-examination by the defence, it has been admitted that the jewellery produced before the police was of the type commonly manufactured by goldsmiths and available in the market. It has further been admitted that any person could purchase such jewellery from the open market. It is also admitted that there was no identification mark on the jewellery to show that it belonged to the original complainant.

The relevant portion of his deposition is reproduced hereunder in vernacular language :-

- ''(૧) ડીસેમ્બર ૨૦૧૯ ના અરસામાં હું મુથુટ ફીનકોર્પ લીમીટેડ ફાયનાન્સ કંપનીમાં નોકરી કરતો હતો. હું નોકરી કરતો હતો તે મુથુટ ફીનકોર્પ લીમીટેડ ફાયનાન્સ કંપનીની વેરાવળ ખાતે અંબાજી મંદીરની ગલીના ખુણામાં જે વ્રાન્ય આવેલ છે તે વ્રાન્યમાં બીજા ત્રણ કર્મચારીઓ કામ કરતા હતા. અમારી આ ફાયનાન્સ કંપની સોના ઉપર ધીરાણ આપવાનું કામ કરે છે.
- (૨) તા.૧૧/૧૨/૧૯ ના રોજ સંજયભાઈ ધનજીભાઈ બારીયા મારી વ્રાંચ ઉપર આવેલા. તેઓ બપોરે ત્રણ વાગ્યાની આસપાસ અમારી વ્રાંચ ઉપર આવેલા. તે સોના ઉપર લોન કરવા માટે આવેલા. તેમની પાસે સોનાની ચાર બંગડી હતી. તેઓએ તેમની પાસેની સોનાની ચાર બંગડી ઉપર લોન જોઈએ છે તેવું અમોને કહેલું. તેમને આપેલ બંગડીના સોનાની ચોગ્ય ચકાસણી કરી તે બંગડી ઉપર રુપીયા એક લાખ નેવું હજાર જેટલી લોન મળી શકે તેમ છે તેવું અમોએ તેને કહેલું. તેઓએ લોન લેવાની હા પાડેલી, અમે તેમની પાસે સોનાનું બીલ છે કે કેમ? તેમ પુછતા બીલ હોવા બાબતે ના પાડેલી. ત્યારબાદ આર.બી.આઈ.ની ગાર્ડ લાઈન મુજબનું ફોર્મ ભરી તેમાં તેમની સહી મેળવી ધીરાણ આપેલ. ધીરાણ આપતા સમયે સંજયભાઈના આધારકાર્ડની કોપી લીધેલી.લોન લેવા માટે સંજયભાઈ એકલા જ આવેલા અને સોનાની ચાર બંગડી ઉપર લોન લઈને જતા રહેલા.
- (૩) બે-ત્રણ દીવસ પછી મેં છાપામાં વાંચેલું અને પંદર તારીખે પોલીસનો સંપર્ક કરીને જણાવેલ કે, આ વ્યક્તી અમારી ઓફીસેથી લોન લઈ ગયેલ છે. પછી પોલીસે પોતે

કામગીરીમાં રોકાયેલ હોવાનું જણાવી આવતીકાલે મારો સંપર્ક કરશે તેમ કહેલું.

- (૪) ત્યારબાદ તા.૧૬ મીના રોજ પોલીસે મારુ નીવેદન લીધેલ અને મેં જે કાંઈ હકીકત હતી તે ઉપરની વીગતે જણાવેલી. સોળ તારીખે પોલીસે મને આરોપી અમારે ત્યાં જે બંગડી ઉપર લોન કરાવી ગયેલો તે બંગડીઓ પોલીસને સુપ્રત કરવા જણાવેલું. મેં તે સમયે પોલીસને હું ડાયરેક્ટ પોલીસને બંગડી આપી ન શકું, મારે આ બાબતે મારા ઉપલા અધીકારીને જાણ કરવી પડે. મેં પોલીસ પાસેથી એક્ઝાઈઆરની નકલ માંગેલી. નકલ આધારે મેં મારા ઉપલા અધીકારીને વાત કરેલી. ત્યારબાદ તા.૧૭ મીના રોજ પો.સ્ટેશન જઈ મુદામાલ ચાર બંગડી હતી તે પ્લાસ્ટીકના પેકેટ સાથે પોલીસ સ્ટેશન જઈ રજુ કરેલી. હું બંગડી રજુ કરવા ગયો ત્યારે પોલીસ સ્ટેશનમાં ગોપાલભાઈ સોની હતા અને તેમણે બંગડીની ચકાસણી કરેલી અને કોઈ બે પંચો હતો તેમની સામે મેં બંગડી રજુ કરેલી. પોલીસના રાઈટર હતા તેમની સમક્ષ બંગડી રજુ કરેલી."

Further, **PW. 21 - Tarunbhai Shivaji Jana (Exh-111)** and **PW- 23 - Kirtibhai Muljibhai Lathigara (Exh-114)** stated that the accused attempted to sell or sold gold ornaments without any bills. The accused failed to prove that these ornaments belonged to him. Thus, the chain of circumstances conclusively establishes the accused's involvement.

The relevant portion of **PW-21 Tarunbhai Shivaji Jana** deposition is reproduced hereunder in vernacular language :-

" મારી દુકાન છગનભાઈ માર્કેટમાં આવેલી છે. હું સોનીકામ કરું છું. હું દાગીના બનાવવાનું અને તોલમાપનું કામ કરું છું. બનાવ વખતે હું બજારગ ચોક પાસે રહેતો હતો. હું આરોપીને ત્યાં શેરડીનો રસ પીવડાવવા મારા બાળકોને લઈને જતો હતો તેથી ઓળખું છું. તેનું નામ સંજયભાઈ છે. આશરે પાંચેક વર્ષ પહેલા આ સંજયભાઈ બપોરના સમયે એક-બે વાગે અમારી દુકાને આવેલા અને મારે આ દાગીના વેચવાના છે એવું

કહી મને ઢાગીના બતાવેલા. મેં કહેલું કે, બીલ છે ? બીલ હોય તો આપણે ઢાગીના રાખીએ નહીંતો નથી રાખવા. ઢાગીનામાં એક મંગલસુત્ર અને એક ચેઈન લઈને આવેલા. એમણે કહેલું કે મારાથી બીલ ખોવાઈ ગયા છે, મેં કહેલું કે, મારે ઢાગીના રાખવા નથી. એટલામાં ચા વાળો આવેલો અને સંજયભાઈ ચા પીને નીકળી ગયેલા. પછી બે ઢીવસ પછી પોલીસે મને બોલાવેલો. મને ત્યાં પુછપરછ કરી કોર્ટમાં તારીખ પડે ત્યારે આવજો એવું જણાવેલું."

The relevant portion of PW-23 **Kirtibhai Muljibhai Lathigara (Exh-114)** deposition is reproduced hereunder in vernacular language :-

- " (૧) મારી દુકાન કીર્તી જવેલર્સના નામથી અલંકાર ચેમ્બર્સ સટાબજાર ખાતે આવેલી છે. હું છેલ્લા ઢશ વર્ષથી મહીલા કોલેજ સામે રહું છું. મારે મારી દુકાને જવું હોય તો ૮૦ કુટના રોડથી સીધો જાઉં, રસ્તામાં બજરંગ ચોક વાળી જગ્યા આવે. ત્યાં હું આરોપી સંજયભાઈને ત્યાં અવાર નવાર રસ પીવા જતો હતો.
- (૨) પાંચ-છ વર્ષ પહેલા અગીયારમી તારીખે સંજયભાઈ મારે ત્યાં એક બુટી અને એક સર વેચવા આવેલા. મેં એમને અઢાર હજાર રુપીયા રોકડા આપેલ. બુટીનું સર સાથેનુ વજન હતુ ૭.૮૯૦ મીલીગ્રામ હતું. હવે કહું છું કે ૭.૯૫૦ મીલીગ્રામ વજન હતું. પછી સંજયભાઈ જતા રહેલા. પછી પોલીસ તપાસ કરવા આવેલી કે, આ ભાઈ એટલે કે સંજયભાઈ તમને કાંઈ આપી ગયેલા છે. તમે એને ઓળખો છો ? મેં કહેલ કે, હા, એ મને બુટી આપી ગયા છે એવુ જણાવી મે બુટી અને સર રજુ કરેલા. હું સંજયભાઈને ઓળખી શકું."

(25) The prosecution has no direct eye-witnesses, and the case rests entirely on circumstantial evidence. Therefore, all links in the chain must be proved. To establish the accused's movements, the prosecution relied on CCTV footage seized through **PW-25, Vikas Haribhai Gohil (Exh-126)**, who proved the seizure of CCTV footage stored in a pen drive (Exh-127), along with required certificates (Exh-135

and 136). Further, **PW-26 Devayatbhai Vasabhai Naghera (Exh-138)**, in whose house the CCTV camera was installed, admitted that the footage was taken from his camera, though he did not support the prosecution fully. From his testimony, it is established that the CCTV footage relied upon by the prosecution originated from his camera and supports the prosecution case regarding the accused's movements.

(26) Now, upon considering the CCTV footage seized by the police in the present case, it appears that the footage pertains to the date of the incident. In the first footage, the accused's sugarcane juice stall is seen. In the footage recorded between 10:25:00 hours and 10:15:39 hours, the deceased is seen. Further, in the footage between 10:21:18 hours and 10:22:19 hours, both the deceased and the accused are visible. In the footage between 10:44:15 hours and 10:44:20 hours, at 10:44:19 hours, the accused and the deceased are seen seated in an auto rickshaw. Thereafter, in the footage between 10:54:45 hours and 10:54:60 hours, at 10:54:45 a.m., the accused is visible, and in the footage between 10:58:30 hours and 10:58:55 hours, at 10:58:32 hours, a Maruti Suzuki Ertiga car is seen, which is the same vehicle driven by the accused. Further, from 10:58:38 hours onwards, a woman wearing a red shawl over her head is seen walking towards the empty side door of the parked

car, who is identified as the deceased. At 10:58:40 hours, the side door opens and the deceased is seen holding the door and seating herself on the front seat on the empty side of the vehicle. At 10:58:54 hours, the vehicle starts and moves forward. Thus, from the said CCTV footage, it is clearly established that the accused took the deceased from Bajrang Chowk to the Community Hall in an auto rickshaw, and thereafter seated her in the Ertiga car and drove away. This version is consistent with the evidence given by the complainant. The CCTV footage is further corroborated by the evidence of **PW-13, Rajeshbhai Bhagwanjibhai Siddhpura**, the rickshaw driver, who has supported the contents of the CCTV footage. The fact that the accused thereafter took the deceased in his Ertiga car is also corroborated by **PW- 22 - Mohammadsha Jamalsha Shahmadar**, who has deposed that the accused brought the deceased to him for treatment on the date of the incident. Thus, the prosecution has proved through CCTV footage and witness testimonies that the accused took the deceased in a rickshaw from Bajrang Chowk to the Community Hall, thereafter in his Ertiga car, and subsequently took her to Mohammadsha Jamalsha Shahmadar. Further, after the incident, the accused visited several persons on the same day for selling the looted ornaments and for availing a loan on the ornaments. Witnesses including **PW-17 -**

Jitenbhai Jayantilal Chomal, PW.21 - Tarunbhai Shivaji Jana, and PW. 23 - Kirtibhai Muljibhai Lathigara have stated that the accused approached them after the incident to sell ornaments or to obtain a loan against them.

The accused has failed to place on record any evidence to show that the ornaments were his own property. Additionally, **PW. 13 - Rajeshbhai Bhagwanjibhai Siddhpura** has stated that on the day following the incident, the accused again travelled with him to Somnath, Mangrol, and Madhada, and during this journey, when the witness received a phone call from the police, the accused appeared nervous. Therefore, the prosecution has successfully proved that prior to the incident, the accused took the deceased with him, and after the incident, he disposed of the looted ornaments. No contrary explanation has been offered by the accused. Hence, even though the case is entirely based on circumstantial evidence, the chain of circumstances is complete and clearly establishes the involvement of the accused.

(27) Considering the entire evidence produced by the prosecution and the findings recorded under Issue No. 1, it becomes necessary to examine the essential ingredients of the offences charged against the accused under Sections 299, 300, and 302 of the Indian Penal Code.

Section 299 - Culpable Homicide:

Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that such act is likely to cause death, commits the offence of culpable homicide.

Essential ingredients:

- 1.The accused committed an act or omission.
- 2.The act resulted in the death of the victim.
- 3.The act was committed with:
 - intention to cause death, or
 - intention to cause bodily injury likely to cause death, or
 - knowledge that the act was likely to cause death.

Under Sections 299 and 300 IPC, the prosecution must establish that the accused possessed criminal intent (mens rea).

Intention is a mental state formed after deliberation and can be inferred from factors such as time, opportunity, place, weapon used, nature of injury, and conduct before, during, and after the incident.

Section 302 - Punishment for Murder:

Whoever commits murder shall be punished with death or imprisonment for life and shall also be liable to fine. Under Section

300 IPC, culpable homicide amounts to murder when the act is committed:

- with the intention of causing death, or
- with the intention of causing bodily injury which the accused knows is likely to cause death, or
- with the intention of causing bodily injury sufficient in the ordinary course of nature to cause death, or
- with the knowledge that the act is so imminently dangerous that it must, in all probability, cause death.

For the third category, the following must be established:

- 1.The deceased suffered bodily injury.
- 2.The injury was caused by the accused.
- 3.The injury was intentional, not accidental.
- 4.The injury was sufficient in the ordinary course of nature to cause death.

In such cases, proof of specific intention to cause death is not essential once intentional injury sufficient to cause death is proved.

(28) Applying the above legal principles under Sections 299, 300, and 302 IPC to the evidence on record, and considering the findings under Issue No. 1, it is proved that the death of the deceased was caused by asphyxia due to smothering by pressing the mouth and nose. From the evidence of the prosecution witnesses, it is further proved that the accused, with the intention of robbing the gold ornaments worn by the deceased, took her from Bajrang Chowk under

the pretext of treatment, seated her in the rickshaw of PW. 13, took her to the Community Hall, thereafter in his Ertiga car to Dabhor Road, and at around 2:00 to 2:30 p.m., near an old lime kiln beyond Sai Baba Temple, parked the vehicle and intentionally smothered the deceased with a pillow, thereby causing her death. Accordingly, the prosecution has proved beyond reasonable doubt the charge under Section 302 IPC, and the charge framed at Exh-18 stands proved against the accused. Therefore, Issue No. 2 is answered in the **affirmative.**

Issue No. 3 :

(29) The accused has also been charged with offences under Sections 392 and 397 IPC. These provisions read as under:

Section 392 - Punishment for Robbery:

Whoever commits robbery shall be punished with rigorous imprisonment up to ten years and shall also be liable to fine; and if the robbery is committed on a highway between sunset and sunrise, the punishment may extend to fourteen years.

Section 397 - Robbery with attempt to cause death or grievous hurt: If, at the time of committing robbery, the offender uses a deadly weapon or causes grievous hurt or attempts to cause death or grievous hurt, the

imprisonment shall not be less than seven years.

From the FIR at Exh-74 and the evidence of **PW. 12 - Bhaveshbhai Govindbhai Anjani**, it is proved that the deceased was wearing gold earrings, nose ring, mangalsutra, gold chain, and four gold bangles, all of which were missing when her body was found. The recovery of the mangalsutra and gold chain from the accused's house is proved through the discovery panchnama at Exh-37, supported by **PW. 5 - Jayeshbhai Haribhai Malamdi**. The recovery of Rs. 91,000/-, obtained by pledging four gold bangles with Muthoot Finance, is proved by **PW. 17 - Jitenbhai Jayantilal Chomal**. Further, **PW.23 - Kirtibhai Muljibhai Lathigara** proved that the accused sold gold earrings and a nose ring, which were later seized by the police under Panchnama Exhibit-54(A), supported by **PW. 8 - Anil @ Prakash Jentilal Agiya**. The accused has failed to establish that the recovered ornaments belonged to him. Hence, it is proved that the accused caused the death of the deceased and committed robbery of her ornaments. Accordingly, the prosecution has successfully proved that the accused committed offences punishable under Sections 392, and 397 IPC. Therefore, Issue No. 3 is answered in the **affirmative** And with regard to Issue No. (4), in the larger interest of justice, the following order is passed :-

:: F I N A L O R D E R ::

- (1) Accused Sanjaybhai Dhanjibhai Bariya is hereby convicted for offences punishable under Sections 302, 392, and 397 of the Indian Penal Code.
- (2) The matter is adjourned for hearing on the question of sentence, after hearing both sides.

Signed and Pronounced in the
Open Court today on this 20th Day of the
month of March, 2026.

Date : 20.03.2026. (Vikramsinh Balvantsinh Gohil)
Place: Veraval. Code No.GJ01042
Sessions Judge,
Veraval

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**IN THE COURT OF PRINCIPAL DISTRICT AND
SESSIONS JUDGE, GIR-SOMNATH AT VERAVAL.**

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Sessions Case No. 07 OF 2020

Exh._____.

Complainant : State of Gujarat

V/s.

Accused : Sanjaybhai Dhanjibhai Bariya
Age : 28, Occupation : Trade,
R/o. : Veraval, Tal. : Veraval.

Present :-

Ld. A.P.P. Mr. J.D. Pathak for the State.

Ld. Advocate Mr. K. G. Dabhi for the Accused.

ORDER ON SENTENCE

- 1.** I have heard arguments on quantum of sentence.
- 2.** It has been argued by Mr. K. G. Dabhi that the accused in this matter has responsibility for supporting his family. If the maximum punishment prescribed under law is imposed upon him, his family will be completely shattered. In view of the aforesaid, it is respectfully requested that leniency may kindly be exercised and the minimum possible sentence under law may be awarded to the accused.

3. Per Contra, Ld. A.P.P. has submitted that, the present accused, with the intention of committing robbery, has caused the death of the deceased. After causing the death of the deceased, the accused committed a serious offence by looting the jewellery worn by the deceased. The prosecution has proved the commission of this grave offence. In view of the seriousness of the offence and as a matter of setting an example in society, it is therefore prayed that the maximum punishment prescribed under law may be imposed on the accused.
4. Keeping in view the nature and gravity of the offence committed by the Accused convict, I am of the view that, appropriate sentence should be passed to commensurate with the offence he has committed.
5. On the question of sentence, both learned advocates have been heard. Since the offence punishable under Section 302, 392, 397 of the Indian Penal Code is proved against the accused, and Section 302 IPC does not provide for any punishment lesser than life imprisonment, this Court, while considering the gravity of the offence along with the age and responsibilities of the accused, passes the following final order in the interest of justice:

F I N A L O R D E R

1. Accused person **Sanjaybhai Dhanjibhai Bariya**, Age : 28, Occupation : Trade, R/o. : Veraval, Tal. : Veraval. is hereby convicted under Section 235(2) of the Code of Criminal Procedure for the offence punishable under Section 302 of the Indian Penal Code and is sentenced to Rigorous Imprisonment for Life and a fine of Rs. 10,000/- (Rupees Ten Thousand only).

2. Accused person **Sanjaybhai Dhanjibhai Bariya**, Age : 28, Occupation : Trade, R/o. : Veraval, Tal. : Veraval. is hereby convicted under Section 235(2) of the Code of Criminal Procedure for the offence punishable under Section 392 of the Indian Penal Code and is sentenced to Rigorous Imprisonment for Ten years and a fine of Rs. 5,000/- (Rupees Five Thousand only).

3. Accused person **Sanjaybhai Dhanjibhai Bariya**, Age : 28, Occupation : Trade, R/o. : Veraval, Tal. : Veraval. is hereby convicted under Section 235(2) of the Code of Criminal Procedure for the offence punishable under Section 397 of the Indian Penal Code and is sentenced to Rigorous Imprisonment for Seven years and

a fine of Rs. 5,000/- (Rupees Five Thousand only).

4. The bail bond and surety bond of the accused, who is presently on bail, are hereby cancelled, and he shall be taken into judicial custody immediately.
5. The accused shall undergo all the sentences concurrently.
6. A free copy of this judgment shall be furnished to the accused immediately as required under Section 363(1) Cr.P.C.
7. In respect of the items seized in this matter, namely Yellow metal jewelry and gold jewelry, Cash amounting to ₹91,000/- & ₹1,07,000/- and A golden-colored Samsung mobile phone, A Maruti Suzuki Ertiga VDI model vehicle bearing registration number GJ-01-KR-6008 and motorcycle bearing registration number GJ-32-L-7832; if any previous order has already been passed regarding these seized properties, the same may be upheld. Otherwise, after verification of ownership, these seized properties should be returned to the lawful owners after completion of the appeal period. The remaining unvalued / non-precious seized items, if any, may be ordered to be destroyed after the appeal period.

8. Warrant of sentence be prepared accordingly.

Pronounced in open court today on this 20th day of March, 2026.

Place : Veraval.
Date : 20.03.2026.

(Vikramsingh B. Gohil)
Sessions Judge,
Gir-Somnath at Veraval.
Code No.GJ01042